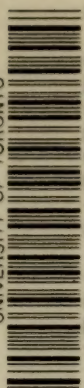


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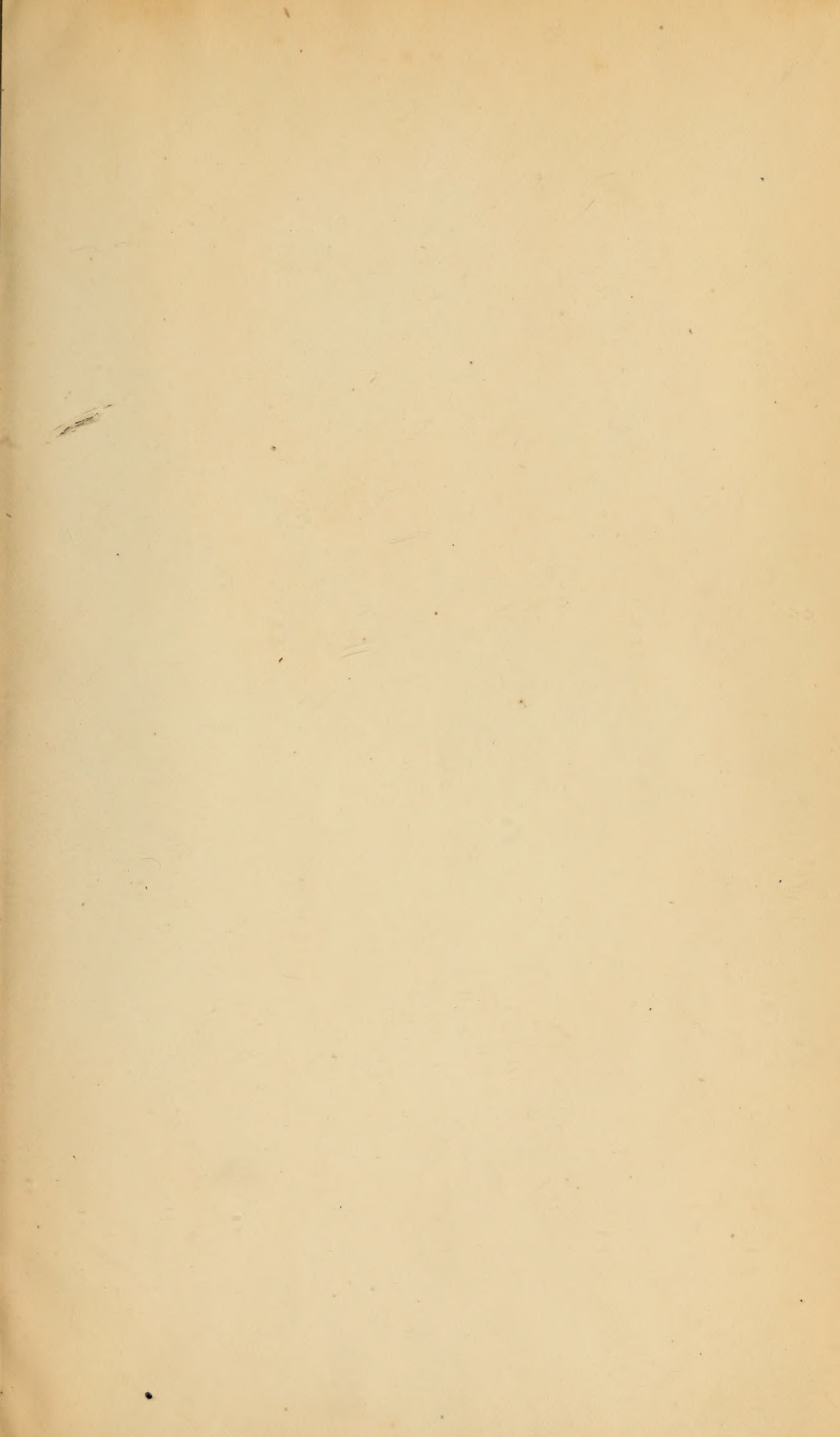





















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LIFE AND TIMES

OF

JAMES MADISON.





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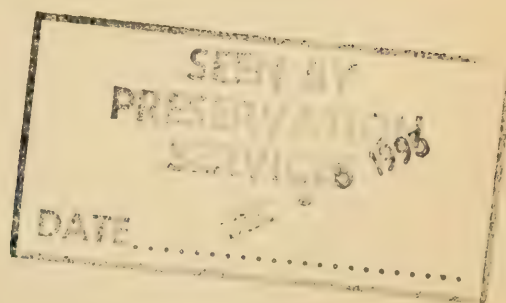
HISTORY  
OF THE  
LIFE AND TIMES  
OF  
JAMES MADISON.

BY WILLIAM C. RIVES.

VOLUME III.

BOSTON:  
LITTLE, BROWN, AND COMPANY.

M DCCC LXVIII.



Entered according to Act of Congress, in the year 1868, by  
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CAMBRIDGE:  
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## N O T E.

IT was the design of the author to complete this work — the employment and solace of his declining years — in a fourth volume ; but death put an end to his labors, at Castle Hill, Virginia, on the 25th day of April, 1868. The present volume embraces all of his hitherto unpublished history that he had prepared for the press, and brings the narrative down to the close of General Washington's administration.

Others may do justice to the epoch of American history which he was not permitted to reach in his portrayal of Madison's career ; but it is not too much to say, that no living writer is so well qualified as he was, by intimate intercourse with Madison, and by special study, to treat adequately the constitutional and early political history of the country.

In these pages, it is believed his countrymen will see reflected much of the experience, learning, ability, and eloquence which won for the author the highest distinction in the service of his native State, and, in a wider sphere, as Member of Congress, Senator of the United States, and Minister to France during two eventful periods of her revolutionary history.

A general Index to the three volumes, prepared with skill and fidelity by Dr. JOHN APPLETON, cannot fail to add to the convenience and value of the work.

THE EDITOR.





## P R E F A C E.

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IN the prosecution of this work, it has been our design, as far as practicable, to make the several volumes complete in themselves, with respect to a definite period of history treated in each. In the first volume, we have followed Mr. Madison through the events of the Revolution, giving an outline of the struggle for national existence, with the first bond of political union between the States,—the Articles of Confederation. In the second, we have traced him through the internal difficulties and trials which intervened from the close of the war of the Revolution to the formation and final establishment of the Constitution of the United States; exhibiting, in the parts borne by him and his distinguished co-laborers, a detailed account of the origin and progress, step by step, of that great organic change of our institutions. In the present volume, we accompany him in a more stirring and diversified scene,—the exciting and memorable struggle of the two great political

parties, Republican and Federalist, which ensued, after the adoption of the Constitution, in the administrative application of its principles and construction of its powers, and which has exercised, and is destined still to exercise, a most important influence on the fortunes of the country.

During the whole period of Washington's administration, Mr. Madison was an active member of the House of Representatives; and if not the leader, — a position and title he never affected, — he was, by universal acknowledgment, the ablest and most distinguished member of the Republican party in either House of Congress. This brought him prominently forward in the discussions of that agitated period; and while no one had so large a share in those fundamental acts of legislation which put the government in motion, and which still remain unchanged upon the statute-book, as in some sort a part of the Constitution itself, he appeared daily in the parliamentary arena, as a ready and consummate debater, and a champion of rare and varied powers, extending to every department of parliamentary eloquence, from the severest logic to the liveliest repartee. He thus became involved in the political contests of the day; and, though never departing from the dignity and good temper native to his character, he came in for a full share of the obloquy of party denunciation.

The justice due to his character has imposed upon us the delicate and disagreeable duty, if indeed it was not required of us by yet higher considerations, of subjecting the conduct, opinions, and political systems of his adversaries to a free and honest examination, “nothing extenuating, nor setting down aught in malice.” In doing this, we have in every instance drawn the materials of our judgment from the written avowals and testimony of the parties themselves, brought to light by the blind idolatry and indiscriminating party zeal of their families or friends. Nor in exercising this rightful prerogative of history have we felt ourselves bound by the *dicta* of historical writers who have preceded us, however high their name and station, when we have been convinced, by our own careful investigation of facts, that those dicta were founded in error or injustice. “*Amicus Plato, sed magis amica veritas.*”

In delivering this volume to the press, we cannot suppress the inward satisfaction we have felt—a satisfaction which, we flatter ourselves, every generous reader will share with us—in the evidence it affords, that the mutual confidence and respect which had so long subsisted between Mr. Madison and the Father of his country suffered no abatement, while they were on the public stage together, from occasional differences of opinion on questions



of public policy; for on questions of *principle* none ever existed. They were both, in principle, republicans of the conservative school. However the spirit of party may have sought to appropriate to its advantage the sanction of Washington's great name, he himself declared, to the last moment of his official life, that he was of "no party," in the contemporary application of the term; and all who shall study the career of Mr. Madison with candor and impartiality will say that he was a patriot far more than a party man, making the honor and happiness of his country and the preservation of its Constitution the guides of his public conduct, regardless of the seductions of personal ambition or the allurements of political power.

W. C. R.

CASTLE HILL, VA., Feb. 22, 1868.

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LIFE AND TIMES  
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THE first Wednesday of March, 1789, was, as we have seen, the period fixed for commencing, in



the city of New York, the operations of the new government under the Constitution. Neither House of Congress, however, was able to form a quorum until the early part of the following month. The first duty devolved upon them by the Constitution was to examine, in joint meeting, the votes which had been given by the several States for President and Vice-President of the United States, and to declare the result. This was done on the 6th day of April, 1789, and suitable measures adopted to notify to General Washington and Mr. Adams their respective elections to the offices of President and Vice-President, — the former, by the unanimous vote of the electoral colleges, expressing the undivided wish of the nation; the latter, by a plurality of voices, which, though falling short of a majority of the whole, was yet, under the Constitution, sufficient to make an election for the second office.

The venerable Charles Thompson, Secretary of the old Congress, who had occupied that position of trust and confidence for fourteen years, and whose very name was redolent of the memories of the struggle for independence, was the messenger chosen to convey to Washington the official notice of his election. He arrived at Mount Vernon on the 14th day of April; and, on the 16th, General Washington, attended by him and his former aide-de-camp and personal friend, Colonel Humphreys, set out for New York. An entry of the same date in his private journal attests the deep and

solemn impressions with which he quitted his loved retreat, and, at the call of his country, again entered upon the anxious career of public life. "About ten o'clock this day, I bade adieu to Mount Vernon, to private life, and to domestic felicity; and, with a mind oppressed with more anxious and painful sensations than I have words to express, set out for New York, in company with Mr. Thompson and Colonel Humphreys, with the best dispositions to render service to my country, in obedience to its call, but with less hope of answering its expectations."

Every step of his progress was marked by touching expressions of the national love, confidence, and gratitude. On the 23d of April he arrived at New York, and was conducted by a committee of Congress, amid public acclamations and rejoicings, to the house destined for his residence. His formal reception by the two Houses of Congress, and induction into office, took place in the Senate chamber, on the 30th day of April; when, in presence of both Houses of Congress, of the officers of the old government, of the foreign ministers, and as many of the public as could be admitted, he delivered with great dignity, but not without deep emotion, his inaugural speech on assuming the reins of the executive administration.

Among the vicissitudes incident to human life, no event, he said, could have filled him with greater anxieties than that of which the notification had been transmitted to him. On the one hand, he was

summoned by his country, whose voice he could never hear but with veneration and love, from a retreat he had fondly chosen as the asylum of his declining years. On the other hand, the magnitude and difficulty of the trust to which he was called could not but overwhelm with despondence one so little practised as himself in the duties of civil administration. In this conflict of emotions, he had faithfully studied to collect his duty from a just appreciation of every circumstance by which it might be affected; and if, in forming his conclusion, he had been too much swayed by a grateful remembrance of former instances, or an affectionate sensibility to the last transcendent proof, of the confidence of his fellow-citizens, and had thence too little consulted his incapacity, as well as his disinclination for the weighty and untried cares before him, his error, he trusted, would be palliated by the motives which misled him. He then, with deep solemnity, addressed his "fervent supplications to that Almighty Being who rules over the universe, who presides in the councils of nations, and whose providential aids can supply every human defect, that His benediction may consecrate to the liberties and happiness of the people of the United States a government instituted by themselves for these essential purposes, and may enable every instrument employed in its administration to execute with success the functions allotted to his charge."

Forbearing to recommend to Congress, at that



time, any specific measure of public policy, from which he excused himself by a graceful tribute to "the talents, patriotism, and rectitude which adorn the characters selected to devise and adopt them," he contented himself with expressing his confidence, in general, that, "while, on one side, no local prejudices or attachments, no separate views, nor party animosities, will misdirect the comprehensive and equal eye which ought to watch over this great assemblage of communities and interests; so, on another, that the foundation of our national policy will be laid in the pure and immutable principles of private morality, and the pre-eminence of free government be exemplified by all the attributes which can win the affections of its citizens and command the respect of the world." This anticipation, he added, he indulged with the more hopefulness, "as no truth is better established than there exists, in the economy and course of nature, an indissoluble union between virtue and happiness; as the smiles of Heaven can never be expected on any nation that disregards the eternal rules of order and right, which Heaven itself has ordained; and as the preservation of the sacred fire of liberty and the destiny of the republican model of government are justly considered as deeply, perhaps finally, staked on the experiment intrusted to the hands of the American people."

He next invited the consideration of Congress to the inquiry, whether the exercise of the occasional power of initiating amendments to the Con-

stitution, delegated to it by the fifth Article of that instrument, may not be rendered expedient, at the present juncture, by the nature of the objections which have been urged against the system, or the degree of inquietude that has given birth to them. "Instead," he said, "of undertaking particular recommendations on this subject, in which I could be guided by no lights derived from official opportunities, I shall again give way to my entire confidence in your discernment and pursuit of the public good. For I assure myself, that, whilst you carefully avoid every alteration which might endanger the benefits of an united and effective government, or which ought to await the future lessons of experience, a reverence for the characteristic rights of freemen, and a regard for the public harmony, will sufficiently influence your deliberations on the question, how far the former can be more impregnably fortified, or the latter be safely and advantageously promoted."

After adverting to the resolution formed by him, when first honored with a call into the service of his country, to decline all personal emoluments; and requesting, therefore, that the pecuniary estimates for the station in which he was then placed should, during his continuance in it, be limited to such actual expenditures as the public good may be thought to require, — he concluded with an impressive invocation "to the benign Parent of the human race, that, since He has been pleased to favor the American people with opportunities for

deliberating in perfect tranquillity, and dispositions for deciding with unparalleled unanimity, on a form of government for the security of their union and the advancement of their happiness; so His divine blessing may be equally conspicuous in the enlarged views, the temperate consultations, and the wise measures, on which the success of their government must depend.”<sup>1</sup>

To this speech, answers, full of confidence and respectful attachment, were voted by both Houses. That of the House of Representatives was reported by a committee of which Mr. Madison was chairman, and is known to have been written by him. It expressed in language of great chastity and dignity, and with an overflowing warmth of affection, removed alike from servility or stereotyped formality, the loyalty of a free people to their first citizen, chosen by themselves, to preside over their affairs,—the ardent but rational homage of the heart to great services and transcendent merit.

“The Representatives of the people of the United States,” they said, “present their congratulations on the event by which your fellow-citizens have attested the pre-eminence of your merit. You have long held the first place in their esteem. You have often received tokens of their affection. You now possess the only proof that re-

<sup>1</sup> It is a circumstance honorable to both parties, and a striking illustration of their intimate communion of mind and friendship, that, in this first and model address of the

American President to the assembled councils of the nation, General Washington called to his aid the practised and polished pen of Mr. Madison. — See post, pp. 64, 65.



mained of their gratitude for your services, of their reverence for your wisdom, and of their confidence in your virtues. You enjoy the highest, because the truest, honor of being the first magistrate, by the unanimous choice, of the freest people on the face of the earth.

“We well know the anxieties with which you must have obeyed a summons from the repose reserved for your declining years, into public scenes, of which you had taken your leave for ever. But the obedience was due to the occasion. It is already applauded by the universal joy which welcomes you to your station. And we cannot doubt that it will be rewarded with all the satisfaction with which an ardent love for your fellow-citizens must review successful efforts to promote their happiness.

“This anticipation is not justified merely by the past experience of your signal services. It is particularly suggested by the pious impressions under which you commence your administration, and the enlightened maxims by which you mean to conduct it. We feel with you the strongest obligations to adore the invisible hand which has led the American people through so many difficulties; to cherish a conscious responsibility for the destiny of republican liberty; and to seek the only sure means of preserving and recommending the precious deposit, in a system of legislation, founded on the principles of an honest policy, and directed by the spirit of a diffusive patriotism.”

After responding, in suitable terms, to the several suggestions contained in the speech, the address concluded: "Such are the sentiments we have thought fit to address to you. They flow from our own hearts; and we verily believe, that, among the millions we represent, there is not a virtuous citizen whose heart will disown them. All that remains is, that we join in your fervent supplications for the blessings of Heaven on our country; and that we add our own for the choicest of these blessings on the most beloved of her citizens."

Amid this auspicious inauguration of the new government, there was one incident which formed an exception to the general harmony and union of sentiment that prevailed. On the 23d of April, 1789, while the arrangements for the formal reception of the President by the two Houses were under consideration, a committee was appointed by the Senate, "to consider and report what style or titles it will be proper to annex to the offices of President and Vice-President of the United States, if any other than those given in the Constitution;" and it was authorized to confer on the subject with such committee as the House of Representatives shall appoint for the purpose. On the following day, a committee was appointed by the House. The joint committee reported, that it is not proper to annex to the offices of President and Vice-President any other style or titles than those expressed in the Constitution.

This report was cordially and promptly accepted

by the House of Representatives; but was disagreed to by the Senate, who proceeded, at the same time, to appoint a new committee to consider and report "under what title it will be proper for the *Senate* to address the President of the United States."<sup>1</sup> On the following day, the powers of the new committee were modified and enlarged, "to confer with any committee to be appointed by the House of Representatives, on the difference of opinion, now subsisting between the two Houses, respecting the title of the President of the United States." The message of the Senate, inviting a committee of conference on the disagreeing votes of the two Houses, gave rise to a very warm and almost acrimonious debate in the House of Representatives; which resulted, however, in the appointment of another committee on its part, as a courtesy which could not be decently withheld from a co-ordinate branch of the legislature.<sup>2</sup>

The two committees were unable to agree on any report; and the committee of the Senate made a separate report, recommending that the President should be addressed as "His Highness, the President of the United States of America, and Protector of their Liberties." This report was postponed; and, in lieu of it, the Senate adopted a resolution,

<sup>1</sup> Mr. Richard Henry Lee, of Virginia, was chairman of each of the committees appointed by the Senate. His colleagues on the first committee were Mr. Izard, of South Carolina, and Mr. Dalton, of Massa-

chusetts; on the second, Mr. Ellsworth and Mr. Johnson, the two senators from Connecticut.

<sup>2</sup> See this debate in Lloyd's Register, vol. 1. pp. 282-290.



declaring, in general terms, that respect for the sentiments and usages of civilized nations rendered it proper, in their opinion, to annex a suitable title to the office of President of the United States; but as the House of Representatives had already, in the address delivered by them, dispensed with any other title than that by which the office is designated in the Constitution, they would for *the president*, in order to preserve harmony, conform to that example.

This singular incident in the early history of the government, so little in accordance with the republican genius of the people and of the Constitution, is thus related by Mr. Madison, in a letter to Mr. Jefferson, of the 23d of May, 1789:—

“My last inclosed copies of the President’s inaugural speech, and the answer of the House of Representatives. I now add the answer of the Senate. It will not have escaped you, that the former was addressed, with a truly republican simplicity, to George Washington, President of the United States. The latter follows the example, with the omission of the personal name, but without any other than the constitutional title. The proceeding on this point was in the House of Representatives spontaneous. The imitation by the Senate was extorted. The question became a serious one between the two Houses. Mr. Adams espoused the cause of titles with great earnestness.<sup>1</sup>

<sup>1</sup> It appears from a letter of Mr. Adams, written in 1792, that it was in consequence of observations addressed by him from the chair to

His friend, Richard Henry Lee, although elected as a republican enemy to an 'aristocratical' Constitution, was a most zealous second. The projected title was, 'His Highness, the President of the United States of America, and Protector of their Liberties.' Had the project succeeded, it would have subjected the President to a severe dilemma, and given a deep wound to our infant government."

Before the arrival and inauguration of the President, Congress had found it necessary — such was the urgency of public affairs — to enter on the discharge of its separate legislative duties. To provide certain and adequate revenues for defraying the expenses and fulfilling the engagements of the government; to prescribe the organization and define the attributes of the principal administrative departments; to settle a judiciary system for giving effect to the laws and Constitution of the Union; to lay, in general, the foundations of a national policy at home and abroad, — such were the difficult and important duties which devolved upon the first Congress under the Constitution.

The men chosen by the people or the States to perform these arduous tasks, in the one and the other branch of the legislature, were in general men of large experience, of practical sagacity, and of good dispositions, except when swayed by the predominance of local and partial interests. In

the Senate, that a committee was raised to consider and report what title it would be proper to annex to

the office of President. See this letter in Adams's Works, vol. VIII. pp. 512, 513.

the House of Representatives, which then consisted of fifty-nine members (North Carolina and Rhode Island not having yet joined the Union), eight of them — Mr. Gilman of New Hampshire, Mr. Gerry of Massachusetts, Mr. Sherman of Connecticut, Mr. Clymer and Mr. Fitzsimmons of Pennsylvania, Mr. Daniel Carroll of Maryland, Mr. Madison of Virginia, and Mr. Baldwin of Georgia — had been members of the convention which framed the Constitution. Of the residue, a large proportion had been members either of the Revolutionary Congress or the Congress of the confederation; and several, who now appeared for the first time on the national theatre, soon acquired a distinguished national reputation by their abilities and their eloquence.

In this assembly, the lead, by general consent, was assigned to Mr. Madison. On the 8th day of April, immediately after the oath of office, prescribed by the Constitution, had been administered to the members, he rose and offered to the House a resolution relative to the best mode of raising an immediate revenue, and at the same time “rescuing the trade of the country, in some degree, from its present anarchy.” The revenue system recommended by the Congress of the confederation in 1783, — which consisted, in the first place, of specific duties on certain enumerated articles of foreign merchandise,<sup>1</sup> and then of an uniform *ad valorem* duty

<sup>1</sup> The enumerated articles in the revenue plan of 1783 were the various descriptions of spirituous

liquors, wines, teas, cocoa and coffee, sugars, molasses, and pepper.



of five per centum on non-enumerated articles, — having undergone the careful consideration of all the States at the time, and received the sanction of nearly all of them, he thought would, with proper modifications, be best adapted to the present exigency. Pressed as they were for immediate supplies to the treasury, and not having yet the necessary data for detailed estimates, it would not be practicable for them to perfect an entirely new system. He proposed, therefore, to make the system of 1783 the basis of their present action ; and to connect with it a graduated scale of duties on the tonnage of all vessels importing goods into the United States, according as they should be the property of American citizens, of the subjects of foreign powers which had formed treaties of commerce with the United States, or of those which had no such treaties.

The proposition of Mr. Madison, as a basis of legislative action, met with general approbation. But a disposition was soon manifested to extend very largely the list of enumerated articles. Mr. Fitzsimmons, of Pennsylvania, prepared and submitted a long list of additional articles for special rates of duty ; having in view, to use his own expression, “the encouragement of the productions of the country and the protection of its infant manufactures,” as well as the raising of revenue, which was the primary object of Mr. Madison’s proposition. This opened a wide field for the competition of local and rival interests. But with a single excep-

tion, to be hereafter noticed, a spirit of wise moderation, and of "mutual deference and concession," prevailed in the discussion. The enlarged and statesmanlike views announced by Mr. Madison, and the example he gave in his own course of action of the abnegation of all exclusive, sectional interests, contributed, in an eminent degree, to produce this result.

"I own myself," he said, "the friend of a very free system of commerce, and hold it as a truth that commercial shackles are generally unjust, oppressive, and impolitic. It is also a truth, that, if industry and labor are left free to take their own course, they will generally be directed to those objects which are most productive; and this in a more certain and direct manner than the wisdom of the most enlightened legislature could point out." But to these general principles he admitted there are sometimes important exceptions, arising from the necessity of countervailing the selfish and injurious policy of other nations; from the expediency of sustaining nascent enterprises of domestic industry, which, without the seasonable and incidental encouragement of the government, would perish; from the vital and paramount interests of the national defence; and from considerations of fiscal convenience, so far as revenue can be obtained with more certainty, ease, and equality, by imposts on trade, than by any other method.

The wisdom of the statesman consists in distinguishing these cases, and rightly determining when

the general rule, and when the exception, applies. In every case, he said, "we must consider the *general interest of the Union*, for this is as much the duty of every representative to consider, as State or local interests; and any system of impost that this body will adopt must be founded on the principles of mutual concession."

One of the measures now brought forward by him, specially intended for the encouragement and protection of the navigating interest, by the imposition of discriminating tonnage duties on foreign vessels, was in itself the strongest illustration of the liberal and catholic spirit in which he acted. The navigation of the country was almost exclusively in the hands of the Northern and Eastern States, and the immediate benefit, therefore, of the proposed duties would accrue to them; while the burthen upon the agricultural States of the South, which furnished the chief employment for the shipping of the country, would be borne without any compensating advantage to them as shipowners. But Mr. Madison looked at the subject from a higher point of view,—the necessity of fostering a naval power for national defence; and was willing, for his own State and section, to incur a partial sacrifice, in order to promote what he deemed an object of vital concern to the nation.

"If," said he, "it is expedient for America to have vessels employed in commerce at all, it will be proper that she have enough to answer all the purposes intended, — to form a school for seamen,



to lay the foundation of a navy, and to be able to support herself against the interference of foreigners. . . . I consider an acquisition of maritime strength essential to this country. If ever we are so unfortunate as to be engaged in war, what but this can defend our towns and sea-coast? or what but this can enable us to repel an invading enemy?"<sup>1</sup>

Recurring to the same important subject two weeks later, he said, "I admit that laying fifty cents per ton on foreign vessels, and but six on our own, is a regulation by which the owners of American shipping will put a considerable part of the difference into their pockets. This, sir, I consider a sacrifice of interest to policy. . . . We have maritime dangers to guard against; and we can be secured from them in no other way than by having a navy and seamen of our own. These can be obtained only by giving a preference. I admit it is a tax, and a tax upon our produce; but it is a tax we must pay for the national security. . . . I am a friend to the navigation of America, and shall always be ready to go as great lengths in favor of that interest as any gentleman on this floor."<sup>2</sup>

In these sentiments, and the measure proposed by him, Mr. Madison was supported by the cordial concurrence of almost the entire delegation of his State. The representatives of the two other Southern States then present in Congress — South Carolina and Georgia — also gave an unqualified assent to the principle of discrimination in favor of Ameri-

<sup>1</sup> Lloyd's Debates for 21st April, 1789.

<sup>2</sup> Idem, 4th May, 1789.

can navigation, and differed only as to the amount of the proposed duty. Conduct of so much liberality and self-denial on the part of Southern members extorted a handsome tribute of acknowledgment from a leading representative of the North,<sup>1</sup> and well merited a return in kind. But the example was easier to praise than to imitate.

Among the articles on which specific duties were proposed, were spirituous liquors and molasses. The latter article was imported very largely into New England, — particularly Massachusetts, — not merely for consumption in substance, but as a material from which a liquor was distilled that entered very extensively into competition with the West-India spirits. If suffered, therefore, to be imported without paying a duty in just proportion to that imposed on the spirits of the West Indies, the New-England rum produced from it would have such an advantage in the competition, as to exclude its foreign rival, and destroy the revenue intended to be drawn from that source. Under this view of the subject, while the duty on ardent spirits of Jamaica proof was put at fifteen cents the gallon, that on molasses was put by the Committee of the Whole, after full discussion and deliberation, at six cents the gallon.

Moderate as this duty was, it gave rise to a violent outcry among the representatives of Massachusetts; and nearly the whole delegation of the State

<sup>1</sup> Mr. Ames of Massachusetts. See his remarks in Lloyd's Debates, vol. I. p. 239.

occupied the time of the House for several days with vehement remonstrances against it. One of them, Mr. Thacher, went so far as to intimate that the people of his State "will hardly bear a tax which they cannot but look upon as odious and oppressive;" and something having been said, in the course of the discussion, of the noxious effects of New-England rum on the health and morals of the country, he sought to offset the account by invidious allusions to the subject of African slavery in the South. Mr. Ames, in a highly colored fancy sketch of the desolating effects of the diminutive duty proposed on molasses, allowed himself to say, "Mothers will tell their children, when they solicit their daily and accustomed nutriment, that the new laws forbid them the use of it; and they will grow up in detestation of the hand which proscribes their innocent food, and the occupation of their fathers."

Mr. Madison, in replying to the first speaker, said with dignity, "I shall make no observation upon the language of the gentleman, because I do not conceive it expresses either the deliberate temper of his own mind or the good sense of his constituents." He contented himself, therefore, with showing, that "if the duty on molasses be reduced, we bid fair to lose the great revenue expected from West-India rum, and have its place supplied with a baser spirit; and thus the interests of three millions of people are to be sacrificed to the establishment of a few distilleries!" But to the ambitious



and minatory rhetoric of Mr. Ames, he addressed the following grave rebuke: —

“The Southern States import many articles which the Eastern do not, — many things that are necessary to the poor. Why may we not, with equal justice, color our reasoning by a description of our sufferings? May not public exclamations be excited; and the *children*, for want of clothes, be taught to breathe a vindictive spirit? But let me ask, gentlemen, why these apprehensions for one part of the Union more than the other? Are the Northern people made of finer clay? Do they respire a clearer air? Do their breasts burn with a more generous ardor for their rights as men, or for their country’s happiness and glory? Are they the chosen few? Are all others to be oppressed with accumulated burthens, and they to take their course easy and unrestrained? No: I trust the general government will equally affect all, for the protection of whose interests it was instituted, — which can only be done by acts of justice and impartiality. And on this ground I commit the decision to the House.”

But the part of Mr. Madison’s proposition which gave rise to the most earnest and important discussion, was the discrimination he proposed in the imposition of tonnage duties between the vessels of nations having treaties of commerce with the United States, and of those not having such treaties. France, Holland, Sweden, and Prussia had entered into liberal treaties of amity and commerce

with the United States. But England, although she had a larger interest in the commerce of the United States than any other power, had perseveringly and haughtily rejected every overture made by the latter for a commercial arrangement founded on principles of reciprocity.

By an Order in Council, issued immediately after the close of the Revolutionary war, she excluded the vessels of the United States from all trade with her West-India colonies; and the ports of Great Britain and Ireland were opened to them only when freighted with the productions of their own country. All participation in the *carrying* trade was strictly prohibited to them. While this system of restriction and exclusion was enforced by England against the United States, she enjoyed a virtual monopoly of almost the whole foreign trade of the United States, direct and indirect. The efforts made by some of the States to counteract her selfish policy had been utterly abortive, from the want of a central power to harmonize and direct them. Now that the exclusive right was vested in the government of the Union to regulate the commercial intercourse with foreign nations, the public sentiment of the country concurred with the wisdom of its most enlightened statesmen, in demanding that this right should be exerted with firmness against a power whose illiberal policy in commerce was rendered doubly distasteful by her haughtiness in declining an exchange of diplomatic relations with the new Republic, as well as by her high-

handed conduct in retaining possession of important military posts within its jurisdiction, against the express stipulations of the treaty of peace.

Mr. Madison proposed his scheme of discriminating tonnage duties as a *commencement* only, in the policy of enforcing a just reciprocity and respect from foreign powers, by means of retaliatory and defensive regulations, when necessary. In developing his proposition, he said, "Will any gentleman say that British vessels ought to enjoy in American ports greater advantages than are enjoyed by Americans in British ports? . . . Some of the most valuable ports she possesses, and most conducive to our interests, are absolutely closed against us; whilst every port in the United States is open to her, without restriction or limitation. Again, even in those which it is permitted America to enter with her vessels, she must bring nothing but the produce of her own soil; while the British ship makes circuitous voyages, and brings with her the produce of every quarter of the globe."

On a subsequent day, he added, "We have now the power to avail ourselves of our natural superiority; and I am for beginning with some manifestation of that ability, in order that foreign nations may be taught to pay us that respect which they have neglected on account of our former imbecility. This language and these sentiments are the language and sentiments of our constituents. The great political revolution, now brought about by the organization of the new government, has its



foundation in these sentiments. Sensible of the selfish policy which actuated a nation long disposed to do all she could to discourage our commercial operations, the States singly attempted to counteract her nefarious schemes. But finding their separate exertions ineffectual, with a united voice they called for a new arrangement, constituted to concentrate, conduct, and point their powers so as to obtain that reciprocity which justice demands. The arrangement has taken place; and though gentlemen may contend that we are not, at this moment, prepared to use it in the latitude I could wish, yet let them concur in doing what shall indicate, that, on a proper occasion, we dare exert ourselves in defeating any measure which foreign commercial policy shall offer hostile to the welfare of America."

Strong as were the considerations of justice, of interest, and of national self-respect which recommended this measure, it met, in certain quarters, with a zealous and persevering resistance. It was opposed, with particular earnestness, by the representative of the city of New York, which was at that day the stronghold of British interests and British sympathies in America. Mr. Madison, writing to Mr. Jefferson on the 9th day of May, 1789, gives the following account of the opposition it encountered in the House of Representatives:—

"The discrimination between nations in and not in treaty has given birth to three distinct and urgent debates. On the last, the minority was very small for putting Great Britain at once on the same foot-

ing with the most favored nations. This policy, though patronized by some respectable names, is chiefly abetted by the spirit of this city [New York], which is steeped in Anglicism. It is not improbable, from the urgency of its representative, that a further effort may yet be made."

Such, however, was the vigor with which Mr. Madison met the arguments of his opponents, on the occasion of the last debate referred to by him, that no effort was afterwards made to avert the inevitable decision. We subjoin a brief extract of his closing and victorious reply to Mr. Lawrance, the representative of the city of New York:—

"The policy manifested by that nation [Great Britain] towards us since the Revolution, must evince to every thinking mind the necessity of extending our commerce to other channels, and no longer suffer her to regulate and limit us in this particular. The policy of her Parliament has been on the watch to seize every advantage which our weak and unguarded situation exposed. She has bound us in commercial shackles, and very nearly defeated the object of our independence. . . . The gentleman from New York seems to apprehend, that, if we commence commercial hostilities, we shall suffer by reprisals. For my part, I am not afraid of suffering in the contest. Her interests can be wounded almost mortally, while ours are invulnerable. She is sensible of this; and the people of America are not unacquainted with the natural advantage possessed over her." . . .

"It may be said the British West Indies could draw supplies from the mother country. But this is only precarious. There are always times when they must be dependent upon us even for the necessary subsistence to save them from destruction. Now, let me ask, what article is it that we are dependent upon Great Britain for, which is essential for our subsistence? If it be said there are articles of convenience we must have from her, I beg gentlemen to look around, and observe that the materials for those manufactures, which she supplies us with and fabricates in the highest perfection, are to be found in the United States; and, within these few years, we have made rapid advances in manufacturing, ourselves. . . . I have, therefore, no fears of entering into a commercial warfare with that nation. If fears are to be entertained, they lay on the other side."<sup>1</sup>

<sup>1</sup> The extracts here given of Mr. Madison's speeches on the subject of commercial discrimination, as well as of his other speeches of this period, are taken from "Lloyd's Register of Debates," a contemporary publication; from which also will be drawn whatever citations we shall have occasion to make of subsequent speeches made by him during the three sessions of the First Congress. It is proper to remark, that this publication, though the best report extant of the congressional debates of that period, and adopted by Gales and Seaton for that portion of the extensive compilation made by them under

the title of "Annals of Congress," is not free from inaccuracies, both of matter and diction. (See Mr. Madison's letter to Messrs. Gales and Seaton, of the 5th of August, 1833.) It appears from this letter of Mr. Madison, that "he never, in a single instance, wrote out a speech beforehand, nor corrected the reporter's notes of one beyond making it faithful in substance;" and even this precaution, we are to infer from what was said by him on the floor of the House in some remarks of the 26th of September, 1789, was omitted with regard to the reports of his speeches in "Lloyd's Register." The extracts,



Mr. Madison was ably seconded in these views by Mr. Fitzsimmons and Mr. Clymer of Pennsylvania, Mr. Baldwin of Georgia, and Mr. Page of Virginia. The opposition on the floor of the House was conducted solely by Mr. Lawrance of New York, and his colleague, Mr. Benson, with the co-operation of Mr. Sherman of Connecticut; but Mr. Ames of Massachusetts, and Mr. Smith of South Carolina, though silent, entered warmly into the spirit of the opposition. The proposition of Mr. Madison was finally carried by an overwhelming majority, nine members only voting against it.<sup>1</sup> The scale of duties adopted was six cents per ton on national vessels, thirty cents on vessels of foreign powers having treaties of commerce with the United States, and fifty cents on those of powers not having such treaties. A similar discrimination was afterwards, on the motion of Mr. Smith of Maryland, made in the Impost Bill, in the duties laid on the leading article of foreign distilled spirits, which, when imported from countries in commercial alliance with the United States, were subjected to a duty of twelve cents, and from countries not in commercial alliance, fifteen cents the gallon.

therefore, we give of his speeches in Congress are to be considered only as conveying an idea of their general spirit and substance and coloring, and not of those minuter graces of language, which, according to all accounts, imparted an uncommon elegance and polish to his spoken as well as written discourse. This circumstance must always

be borne in mind, in comparing the more modern and elaborately finished specimens of American parliamentary eloquence, with the off-hand, but in the main vigorous and spirited, sketches of our ancestors.

<sup>1</sup> This statement was made by Mr. Madison in the debate of the 7th May, 1789.

Both the Tonnage and Impost Bills, when they went up to the Senate, were amended by striking out the clause of discrimination in each. The House, when the bills were returned to it, refused to concur in the amendment; and a committee of conference was appointed on the disagreeing votes of the two branches. In the conference, it was stated, on behalf of the Senate, that that body did not disapprove the principle of the discrimination, but intended, by a separate bill, to give effect to it in a form which they believed would be more thorough and complete. Upon this assurance, the House, rather than risk the loss of the bills, acquiesced with reluctance in the amendment. Nothing, however, grew out of the promises of the Senate but the appointment of a committee to bring in another measure, which fell, still-born, as soon as reported.

The President, whose calm judgment fully recognized both the justice and the policy of the proposed discrimination, was so much disappointed at the conduct of the Senate in striking out the provision from the Tonnage Bill, that, according to a memorandum recorded by Mr. Madison, "he told Mr. Dalton, one of the senators of Massachusetts, that he would not have signed the bill, but for the expectation given him, that the Senate would provide for the object in some other mode deemed more eligible." It afterwards appeared that his sentiments on the subject were not left to rest on the uncertain foundation of oral tradition. In a

letter to his friend, Dr. Stuart, of Virginia, written on the 26th of July, 1789, he used this unequivocal language:—

“The opposition of the Senate to the discrimination in the Tonnage Bill was so adverse to my ideas of justice and policy, that I should have suffered it silently to pass into a law without my signature, had I not been assured by some members of the Senate, that they were preparing another bill, which would answer the purpose more effectually, without being liable to the objections and the consequences which, they feared, would have attended the discrimination proposed in the Tonnage Bill.”



## CHAPTER XXXVIII.

Resolutions proposed by Mr. Madison for organizing Executive Departments — Power of the President to remove from Office, ably and elaborately Discussed — Sustained by Mr. Madison on the True Theory of the Constitution — House of Representatives decide in Favor of the Power, by a Vote of Thirty to Eighteen — Carried in the Senate by Casting Vote of Vice-President — Mr. Madison brings forward Proposition for certain Declaratory Amendments of the Constitution, in the Nature of a Bill of Rights, to quiet Apprehensions in the Public Mind — Persuasive Considerations by which he sustains the Proposition — Finally carried by his Influence and Address, with the required Two-thirds of both Houses — Amendment offered by Mr. Tucker, of South Carolina, affirming the Right of the People to give Mandatory Instructions to their Representatives, rejected by a Vote of Forty-one to Ten — Happy Effects of Amendments adopted on Motion of Mr. Madison — Bill passed by the Senate for Organizing the Federal Judiciary — Opinions and Course of Mr. Madison with regard to it in House of Representatives — Resolutions of Mr. Scott, of Pennsylvania, for fixing Permanent Seat of Government — Combination of New-England States and New York to keep the Seat of Government yet longer in City of New York — To gain Co-operation of Pennsylvania, Mr. Goodhue, of Massachusetts, announces on the Floor of the House an Arrangement, out of doors, between the Representatives of New England and New York, to vote for Eastern Bank of Susquehanna as the *Ultimate* Seat of Government — Spirited Rebuke of this Unparliamentary Proceeding by Mr. Madison — His Speech showing the Superior National Advantages of the Potomac over the Susquehanna for the Permanent Seat of Government — Overture to the Pennsylvania Delegation succeeds, and Bill brought in declaring Eastern Bank of the Susquehanna the Permanent, and the City of

New York the Temporary, Seat of Government — History of the Measure, in a Letter from Mr. Madison to Judge Pendleton — His Persevering Opposition, and Final Success in Defeating it — Congress adjourns — Letter of Mr. Madison to the President, exposing the Policy and Conduct of the several Parties in the late Combination respecting the Seat of Government.

THESE questions of revenue, navigation, and commerce being disposed of, the attention of the House of Representatives was next directed to the important subject of the organization of the leading administrative departments. The Constitution expressly contemplated the establishment of appropriate "executive departments," with a "principal officer" at the head of each, to act under the control and in aid of the President in the performance of his high constitutional functions. Mr. Madison, on the 18th of May, introduced resolutions, in Committee of the Whole, declaring that there should be established an executive department, to be denominated the "Department of Foreign Affairs," at the head of which should be an officer, to be called "Secretary for Foreign Affairs," appointed by the President, with the advice and consent of the Senate, and removable by the President; and, in like manner, a department of the Treasury, and a department of War, with principal officers or secretaries over each, appointed and removable as in the case of secretary for foreign affairs.

The point in these resolutions, which gave rise to a serious difference of opinion and was the subject of debate for the whole day, was that which

related to the removal of the principal officer or secretary by the act of the President alone. Mr. Bland, of Virginia, moved to amend the resolutions, by requiring the "advice and consent" of the Senate to the removal; but the amendment was rejected by a considerable majority, and the resolutions were reported to the House for its concurrence. On the 22d of May, the House concurred in the resolutions of the Committee of the Whole, and appointed a select committee of eleven members, one for each State, — Mr. Madison being the member chosen for Virginia, — to prepare and bring in bills pursuant to the resolutions. The bill for the establishment of the department of foreign affairs was taken up on the 16th of June, just a month after the first discussion on the subject in Committee of the Whole; and the clause respecting the removability of the secretary again became the subject of an elaborate and protracted discussion, which continued through an entire week.

A more important debate has rarely occurred in the constitutional history of any country. It involved an examination of the true theory of the Constitution in some of its most essential principles: touching, on the one hand, the security of the public liberty; on the other, the efficiency and success of the public administration. With the single exception of Mr. Smith, of South Carolina, who contended that all administrative offices were held by the tenure of good behavior, and that the incumbent could, therefore, be removed only by the



slow and litigious process of impeachment, it was universally conceded, that, except in the case of the judiciary, — who were expressly declared to hold their offices during good behavior, — there must exist somewhere in the government a prompt and summary power of removing incompetent, unfit, or inefficient officers, for causes short of official misbehavior in the legal sense. But the Constitution had not declared by whom this discretionary power of removal was to be exercised. It was, consequently, to be determined by a sound and enlightened consideration of the whole economy and genius of the instrument.

By one class of reasoners it was insisted, that, in the nature of things, the power of removal follows the power of appointment, and that, as the President appointed to office by and with the advice and consent of the Senate, so he could remove from office only with the same advice and consent. But this thesis, however plausible or just in general, it was contended, on the other hand, could not be maintained under the Constitution, in reference to the question in debate. The executive power, it was said, was in so many words vested by the Constitution in the President alone, except where qualified by some positive limitation. In the case of appointments, it was expressly qualified, by requiring the advice and consent of the Senate; but, there being no such qualification declared as to removal, the general executive power of the President stood, in that case, discharged from the restriction.

The general principle established by the Constitution was the unity and responsibility of the executive power in the hands of the President. It was, moreover, expressly made his duty "to take care that the laws be faithfully executed." But "how could such a duty," said Mr. Madison, "be required at the hands of the executive magistrate, if the officer, when once appointed, is to depend for his official existence, not upon him, but upon a distinct body? . . . I can hardly bring myself to imagine," he added, "that the wisdom of the convention, who framed the Constitution, contemplated such an incongruity."<sup>1</sup>

It is impossible here to follow this great debate in all its details. The student of our constitutional history will, of course, consult it in the fulness of the contemporaneous reports. The leading part in it was borne by Mr. Madison, with his accustomed ability, profound knowledge, and large and lucid views: but he was ably sustained by Mr. Baldwin, of Georgia; Mr. Richard Bland Lee and Mr. Moore, of Virginia; Mr. Vining, of Delaware; Mr. Clymer, Mr. Hartley and Mr. Scott, of Pennsylvania; Mr. Boudinot, of New Jersey; Mr. Benson and Mr. Lawrance, of New York; Mr. Ames, Mr. Sedgwick, and Mr. Goodhue, of Massachusetts. The opposite side of the question had its leading champions in Mr. Jackson, of Georgia; Mr. Smith, of South Carolina; Mr. Bland, Mr. White, and Mr. Page, of Virginia; Mr. Stone, of

<sup>1</sup> See Lloyd's Debates, vol. I. p. 501.

Maryland ; Mr. Sylvester, of New York ; Mr. Sherman and Mr. Huntington, of Connecticut ; Mr. Gerry, of Massachusetts ; and Mr. Livermore, of New Hampshire. On each side was earnest and honest conviction, freedom from party or sectional bias, anxiety for the truth alone, and a deep sense of the important consequences involved in the decision to be pronounced. After a patient and exhaustive discussion of the subject in all its bearings, it was finally determined, by a vote of thirty to eighteen, that the power of removal, in the case contemplated by the bill, belonged, under the Constitution, to the President alone.<sup>1</sup>

<sup>1</sup> When this question first came before the Senate, on the bill relating to the department of foreign affairs, some of the members were absent ; and the body, naturally sensitive on a subject involving its own powers, was equally divided in opinion. The casting vote was given by the Vice-President in favor of the President's sole power of removal. Subsequently, when the same question was again presented by the bill for the organization of the war department, the Senate decided, by a majority of two, in favor of the President's power. (See Pitkin's Hist. U.S., vol. II. p. 326.) But in the case of the treasury department, which was asserted by some not to be essentially or exclusively an executive department, the clause recognizing the President's power of removing the secretary, was stricken out by a

vote of the Senate ; and that amendment became the subject of a protracted disagreement between the two Houses. (See Lloyd's Debates, vol. II. pp. 126, 131, 143, 262, 263, and 267.) The Senate, however, at last receded ; and the bill was finally passed in the same form, with regard to the President's power of removal, as the bills relating to the departments of foreign affairs and of war. It is to be remarked, however, that while the two latter bills, in their titles, are styled "Acts to establish EXECUTIVE Departments, to be denominated the Departments of Foreign Affairs or of War," the title of the former is simply, "An Act to establish the Treasury Department ;" leaving its proper designation to the vagueness and diversity of individual interpretation.



This solemn legislative interpretation of the Constitution stood wholly unquestioned, through successive administrations of the government and alternations of party ascendancy, for a period of forty years. But when, at the close of that period, the installation of a new President was followed not only by a change of the heads of departments, as was natural and proper, but by a general dismissal of subordinate officers; and the doctrine was openly proclaimed, that the public trusts of the country, of every grade, are the rightful spoils of a victorious party,—many minds were led to call in question the decision pronounced by the Congress of 1789.<sup>1</sup> But nothing is more unsafe than to argue from the abuse of a power against its constitutionality. Not one of those who, in the memorable debate of 1789, contended for the existence of the Presidential power of removal from office, ever dreamed of justifying an arbitrary and irresponsible use of it. On the contrary, Mr. Madison expressly declared, that “the wanton removal of meritorious officers would subject the President to impeachment, and removal from his own high trust.”<sup>2</sup>

The alternative, in the estimation of the statesmen who pronounced the decision of 1789, lay between the responsible power of the President, subject to this constitutional check, and the virtual irresponsibility of the Senate, with the disad-

<sup>1</sup> See Story's Commentaries, vol. III. pp. 394–396.

<sup>2</sup> Lloyd's Debates, vol. I. p. 503

vantage of weakening and embarrassing the public administration in cases often requiring the utmost promptitude of action, and at the cost of a permanency of tenure in public trusts not easily reconcilable with the genius of a republican system. It was with a view to this official permanency that Colonel Hamilton, who, in a number of the "Federalist,"<sup>1</sup> expressed the opinion that "the consent of the Senate would be necessary to displace, as well as to appoint," had advocated the doctrine of the participation of the Senate with the President in the power of removal. The authority of his opinion, expressed in a publication of so much importance, contemporaneous with the adoption of the Constitution, was invoked in the course of the debate; but it was outweighed by the conclusive force of the reasons adduced in support of the opposite construction. And even at this day, with the melancholy evidence before our eyes of the gross abuses of the Presidential power of removal, which have sprung up and grown into a system in the latter and degenerate days of the Republic, it seems impossible to impugn the solidity of the reasoning on which the interpretation, pronounced by the Congress of 1789, was founded.

After the passage of the bill for the establishment of the department of foreign affairs, the bills reported for the organization of the treasury and war departments were taken up, and also passed. The principle of removability by the Pres-

<sup>1</sup> Federalist, No. 77.

ident, with regard to the heads of the departments, was incorporated into those bills in the same form in which it had been asserted in the bill regulating the foreign department.

The organization of the treasury department, from the peculiar nature of the business to be transacted by it, was necessarily more complex than that of either of the other administrative departments; and a system of internal checks and control, between the different officers employed in it, was prescribed with great care and minuteness, to guard the public treasure. It was made the duty of the secretary, as it had been of the superintendent of finance under the confederation, to digest and prepare plans for the management and improvement of the revenue, and the support of public credit; to prepare and report estimates of the public revenue and expenditures; to superintend the collection of the revenue; to decide on the forms of keeping and stating accounts; and to grant warrants for moneys to be issued from the treasury in pursuance of appropriations by law: but no such warrants were to be paid by the treasurer, unless countersigned by the comptroller, as authorized by law, and unless also recorded by the register.

By a subsequent act of legislation, passed during the same session of Congress, additional duties, relating to the domestic administration, were assigned to the department of foreign affairs; which was thenceforward to be denominated the "Department



of State," and the principal officer at the head of it, "Secretary of State."<sup>1</sup>

As soon as these measures, introduced by Mr. Madison for the administrative organization of the government under the Constitution, were carried through the requisite forms of legislation, he felt it his duty earnestly to recall the attention of Congress to the importance of obviating, by a wise exercise of the power of amendment, the honest doubts and apprehensions existing among a large number of the people, with regard to the security of their rights under the new systems. With this view, he had, on the 8th day of June, introduced a series of propositions, offering the desired guarantees, in the shape of amendments to the Constitution; and he prefaced his explanation of the proposed amendments at the time with an impressive statement of the considerations which, in his judgment, rendered the proceeding one of just and enlightened, as well as liberal, policy.

"It appears to me," he said, "that this House is bound, by every motive of prudence, not to let their first session pass over, without proposing to the State legislatures some things to be incorporated into the Constitution, that will render it as acceptable to the whole people of the United States,

<sup>1</sup> A proposition had been made to establish a separate home department, and was rejected. It was then determined to assign a portion of the duties, belonging properly to a home department,

to the secretary of foreign affairs, and to make him secretary of State in general. See Lloyd's Debates, vol. II. pp. 113-117, 121, and 123; and Laws U. S. (Bioren and Duane), vol. II. p. 51.

as it has been found to be to a majority of them. It will be desirable to extinguish from the bosom of every member of the community any apprehensions, that there are those among his countrymen who wish to deprive them of the liberty for which they valiantly fought and freely bled. And if there are amendments desired of such a nature as will not injure the Constitution, and they can be engrafted so as to give satisfaction to the doubting part of our fellow-citizens, the friends of the Federal government, by yielding them, will evince that spirit of deference and concession for which they have been hitherto distinguished.

“ There are a great number of our constituents dissatisfied with the Constitution, among whom are many respectable for their talents and their patriotism, and respectable for the jealousy they feel for their liberties, which, though mistaken in its object, is laudable in its motive. There is a large body of the people, falling under this description, who at present feel much inclined to give their support to the Federal government, if they were satisfied in this one point. We ought not to disregard their inclinations ; but, on principles of amity and moderation, to conform to their wishes, and expressly declare the great rights of mankind secured under this Constitution.”

The amendments proposed by Mr. Madison were, therefore, mainly in the nature of a Declaration of Rights, placing the freedom of speech, the freedom of the press, freedom of religion, the security of

property, personal liberty, trial by jury, and, in general, every right and power of the people not delegated or surrendered, under the ægis of the Constitution, and, by an express interdiction, beyond the reach of the government. Two other provisions were superadded by him,—one to secure a fuller representation of the people in the outset of the government, the other to restrain Congress from voting themselves an increase of compensation to take effect during the current term of representative service. These amendments, without impairing any of the essential powers of the Constitution, would, he believed, have the happy effect of quieting honest apprehensions for the public liberty, and uniting the great body of the people in a cordial sentiment of confidence and attachment to the Constitution.

Notwithstanding the persuasive character of these considerations, there were not a few of the friends of the Constitution, both in and out of Congress, who were exceedingly indisposed to retouch it in any of its lineaments, until time and experience had demonstrated the absolute necessity of a change. Nothing short of the high standing of Mr. Madison in the public councils, and the deference accorded to his opinions and his virtues, could have secured a favorable reception for propositions so counter to the prepossessions of the body to which they were addressed. Against the protest and demurrer of some of the leading members of the House,—Mr. Sherman, Mr. Vining, Mr. Smith of South Carolina,



Mr. Jackson of Georgia, — the last of whom was so energetic in his opposition as to declare, “ Our instability will make us objects of scorn : not content with two revolutions in less than fourteen years, we must enter upon a third,” — in despite of all these adverse influences, the propositions of Mr. Madison were received by the House, and referred to the Committee of the Whole on the State of the Union.

After the lapse of some weeks, Mr. Madison, on the 21st of July, moved to go into Committee of the Whole, for the consideration of his propositions according to the order of the 8th of June. His motion was again met by a host of opponents. At the close of an animated discussion, it was thought best to refer the propositions of Mr. Madison, together with the amendments proposed by the several States, to a committee consisting of one member for each State, with instructions to take the subject of amendments to the Constitution generally into their consideration, and to report thereon to the House. The report of the committee, reproducing the propositions of Mr. Madison almost literally in the form in which he submitted them, was, on the 13th of August, taken up for consideration in Committee of the Whole; and continued under discussion from that day until the 24th of August, when the proposed amendments were adopted by the requisite majority of two-thirds of the House.<sup>1</sup>

<sup>1</sup> In the progress of this discussion, various other amendments were submitted, and successively rejected. Among them was a pro-

They passed, with some modifications, through the Senate by a like majority of that body, and were submitted to the legislatures of the several States for their action, in the form of twelve additional articles to the Constitution. All of these articles, excepting only the last two, — relating to the number of representatives, and the compensation of members of Congress, — were promptly ratified by the legislatures of three-fourths of the States ;

position affirming the right of the people “to instruct their representatives,” which was offered by Mr. Tucker, of South Carolina, as an addition to the amendment of Mr. Madison, interdicting any restraint upon “the right of the people peaceably to assemble and consult for the common good, and to apply to the legislature, by petition or remonstrance, for redress of grievances.” This proposition gave rise to a lucid and able discussion on the binding force of popular instructions, which furnished a new illustration of the fundamental distinction, in the minds of American statesmen of that epoch, between a republic and a democracy. “The clause,” said Mr. Stone, of Maryland, “would *change the government* entirely. Instead of being a government founded upon *representation*, it would be a *democracy* of singular properties.”

Mr. Madison remarked, “Suppose the people instruct their representative to violate the Constitution, is he at liberty to obey such instructions? Suppose he is instructed to patronize certain meas-

ures, and from circumstances known to him but not to his constituents, he is convinced they will endanger the public good, is he bound to sacrifice his own judgment to them? Is he absolutely bound to perform what he is instructed to do? . . . My idea of the sovereignty of the people is, that they can change the Constitution, if they please; but, while the Constitution exists, they must conform themselves to its dictates. But I do not believe that the inhabitants of any district can speak the voice of the people. So far from it, their ideas may contradict the sense of the whole people. Hence the doctrine, that instructions are binding on the representative, is of a doubtful, if not of a dangerous, nature.”

Mr. Hartley, of Pennsylvania, said, “When the passions of the people were excited, instructions have been resorted to and obtained to answer party purposes; and although the public opinion is generally respectable, yet, at such moments, it has been known to be often wrong. Happy is that government composed of men of firm-

and thenceforward became a part, and a most important part, of the Constitution of the country. They stand there, a noble monument of the fidelity, patriotism, influence, and moral and intellectual power of the man by whose persevering exertions, in the face of every possible discouragement, the work was at last accomplished. Of the patience and tact and judgment called for in the management of so delicate a business, some idea may be formed from the facts stated in the following extract

ness and wisdom to discover and resist the popular error." To the same effect spoke Mr. Huntington, of Connecticut: "In troublesome times, designing men have drawn the people to instruct the representatives to their harm; and the representatives have, on such occasions, refused to comply with their instructions. I have known myself that they have been disobeyed, and yet the representative has not been called to account for it. On the contrary, he was caressed and re-elected; while those who have obeyed them, contrary to their private sentiments, have ever after been despised for it."

The proposition of Mr. Tucker was rejected by the decisive vote of forty-one to ten; and that vote may be considered as expressing the deliberate sense of the republican statesmen of America of that day. The lofty example of Edmund Burke, in resisting the frenzy of his constituents for the American war, with other kindred delusions; and the conduct of Mr. Madison, while one of the delegates of

Virginia in the 'old Congress, in declining to conform to the hasty opinions expressed by the legislature of the State, on the vital subject of a general revenue for the Confederacy (see vol. I. of this work, pp. 412-418), — were then considered models for a faithful and manly representative. Even Mr. Jefferson, who afterwards gave the sanction of his opinion to the binding force of instructions, did not hesitate in 1789 to advise his friend General Lafayette "to burn his instructions [of the noblesse of Auvergne], and follow his conscience, as the only sure clew which will eternally guide a man clear of all doubts and inconsistencies." (See his letter to General Washington, of the 10th of May, 1789.) This question has been ably and thoroughly discussed upon the general principles of representative government, and resolved in conformity to the foregoing ideas, by a writer of the most liberal school of whig politics in England, Lord Brougham, in his "Political Philosophy," vol. III. pp. 33-37, and 83.



of a letter written by Mr. Madison, on the 21st of August, 1789, in the very midst of the discussion of his propositions, to Mr. Edmund Randolph of Virginia:—

“For a week past, the subject of amendments of the Constitution has exclusively occupied the House of Representatives. Its progress has been exceedingly wearisome, not only on account of the diversity of opinions that was to be apprehended, but of the apparent views of some to defeat, by delaying, a plan short of their wishes, but likely to satisfy a great part of their companions in opposition throughout the Union. It has been absolutely necessary, in order to effect any thing, to abbreviate debate, and exclude every proposition of a doubtful and unimportant nature. Had it been my wish to have comprehended every amendment recommended by Virginia, I should have acted, from prudence, the very part to which I have been led by choice. Two or three contentious additions would even now frustrate the whole project.”

That the amendments thus obtained tended greatly to strengthen the Constitution in the confidence and affections of the people, and furnished most important safeguards against the abuse or usurpation of power, none will deny. That they exerted a potent influence in removing the jealousies and objections of the two States which had hitherto stood aloof from the Constitution, and in bringing them back into the circle of the Union, is established by abundant contemporary testimony.

Among the papers of Mr. Madison, we find a letter addressed to him by General Davie, of North Carolina, on the 10th of June, 1789, which shows with what solicitude the eyes of the people of that State were directed to the pending deliberations of Congress.

“It has,” he says, “been the uniform cant of the enemies of the government, that Congress would exert all their influence to prevent the calling of a convention, and would never propose an amendment themselves, or consent to an alteration that would in any manner diminish their powers. The people, whose fears had been already alarmed, have received this opinion as just, and become confirmed in their opposition. Your notification, however, of the 4th of May [of an intention to bring forward amendments] has diffused almost universal pleasure. We hold it up as a refutation of the gloomy prophecies of the leaders of the opposition; and the honest part of our anti-Federalists have publicly expressed great satisfaction on this event. Our convention meets again in November, with powers to adopt the Constitution, and any amendments that may be proposed. This renders it extremely important that the amendments, if any, should be prepared before that time.”

When the convention of North Carolina re-assembled in November, the amendments to the Constitution proposed by Mr. Madison had been passed, as we have seen, by two-thirds of both Houses of Congress, and submitted to the States.

The ratification of the Constitution by North Carolina promptly took place, and her example was soon followed by Rhode Island.

While the House of Representatives, under the lead of Mr. Madison, was engaged in perfecting the various important measures to which we have referred, the Senate turned its attention to the organization of the judicial department. On the first day after the formation of a quorum of that body, they appointed a committee, of which Mr. Ellsworth, one of the Senators of Connecticut, was chairman, to bring in a bill "for the organization of the Judiciary of the United States." The bill was reported on the 12th of June, 1789, and, being taken up for consideration by the Senate on the 22d of that month, was, after a continuous discussion from day to day for three weeks, recommitted on the 13th of July. When the bill was first reported, Mr. Madison sent a copy of it to his friend Judge Pendleton, of Virginia, inviting his observations upon it. The following extract of a letter from him to that able and enlightened magistrate, written on the 15th of July, intimated that the bill, as originally reported, was not without many blemishes:—

"I am particularly obliged by your favor of the 3d instant, which incloses your remarks on the Judiciary Bill. It came to hand yesterday only, and I have not the time to compare your suggestions with the plan of the Senate, nor do I know the alterations which may have taken place in it



since it has been under discussion. In many points, even supposing the outline a good one, which I have always viewed as controvertible, defects and inaccuracies were striking."

Three days after the recommitment mentioned above, the bill again came before the Senate,—with what alterations does not appear,—and passed that body by a vote of fourteen to six. It was taken up in the House of Representatives on the 24th of August, and was discussed there, at intervals, from that day to the 17th of September. It provided for the establishment of a Supreme Court, to consist of a chief-justice and five associate justices; of district courts, one for each State, to consist of a single judge appointed for the district; and of circuit courts, consisting of two justices of the Supreme Court and the judge of the district,—to be held successively in each State, according to an arrangement formed by throwing the different States into three circuits. The jurisdiction, both original and appellate, of these several grades of courts, was marked out with precision; their legal processes and forms of procedure were prescribed; and the appellate power of the Supreme Court was expressly extended to the highest State courts in all cases involving the construction of the Constitution, treaties, or laws of the United States, or the validity of rights claimed under them. Provision was also made in the bill for the appointment of an attorney-general of the United States, whose duty it should be to prosecute and conduct all suits in

the Supreme Court in which the United States shall be concerned, and to give his advice and opinion upon questions of law arising in the course of the public administration, whenever required by the President, or requested by any of the heads of departments.

Mr. Madison gave his earnest and anxious attention to this measure, when it came before the House of Representatives. "A judicial system," he said, in entering upon the discussion, "was necessary to accomplish the objects of the government, and ought to be *commensurate* with the other branches of the government." On a subsequent day he remarked, "When we consider the duties that will devolve upon these courts, they strike the mind as being of the greatest magnitude. They are the *guardians* of the laws and of the Constitution of the United States, and, I trust, of the individual States also."<sup>1</sup> His guiding principle, therefore, was so to organize them as to maintain their constitutional character and efficiency; and at the same time to obviate jealousies and fears of their encroachments, so far as could be done without derogating from their necessary functions under the Constitution.<sup>2</sup>

He resisted a motion to strike out the provision for district courts, and substitute for them the State courts invested with Federal jurisdiction; maintaining that the State courts could not be made Federal courts without a violation of the fundamental

<sup>1</sup> See Lloyd's Debates, pp. 302 and 421.

<sup>2</sup> Idem, p. 311.

principles of the Constitution.<sup>1</sup> It is a notable circumstance attending this discussion, that the constitutional authority of the Supreme Court of the Union, to revise the decisions of the State courts in all cases arising under the Constitution and laws of the United States, was distinctly admitted by the supporters of the motion in question, and was not, indeed, controverted by any one. The motion, however, was negatived by a large majority; eleven only voting for it, and thirty-one against it.

There were amendments which Mr. Madison would gladly have seen made to the bill. But the near approach of the period fixed for the termination of the session, and the growing impatience of the House, rendered them hopeless. The measure was passed by the House on the 17th day of September, very nearly in the form in which it came from the Senate. Three days before, — on the 14th of September, — Mr. Madison wrote to Judge Pendleton: “I was favored on Saturday with yours of the 2d instant. The Judiciary Bill is now under consideration. I view it, as you do, as defective both in its general structure and many of its particular regulations. The attachment of the Eastern members, the difficulty of substituting another plan with the consent of those who agree in disliking the bill, the defect of time, &c., will,

<sup>1</sup> A contrary opinion had been expressed by Colonel Hamilton, in the 81st No. of the “Federalist;” but the more mature views of Mr. Mad-

ison were afterwards fully sustained by the decisions, both of the Supreme Court U.S., and of the State courts.



however, prevent any radical alteration. The most I hope for is, that some offensive violations of Southern jurisprudence may be corrected, and that the system may speedily undergo a reconsideration, under the auspices of the judges, who alone will be able, perhaps, to set it to rights."

Among the subjects which occupied the attention of Congress during the remainder of its session, was one that gave a high degree of interest to its closing scenes,—the important and exciting question of the permanent seat of government. New York was too far removed from a position of centrality, with reference to the Confederacy generally,—not to speak of other objections to it,—to be longer acquiesced in as the political metropolis of the Union. The Middle and the Southern States felt themselves deeply aggrieved by a selection marked with such manifest features of inequality, and subjecting some of them to such serious inconveniences in the necessary intercourse of business and public duty with the government. On the 27th of August, 1789, Mr. Scott, one of the representatives of Pennsylvania, in pursuance of previous notice, brought before the House a resolution, declaring "that a permanent residence ought to be fixed for the general government of the United States, at some convenient place, as near the centre of wealth, population, and extent of territory, as may be consistent with convenience to the navigation of the Atlantic Ocean, and having due regard to the particular situation of the Western country."

The consideration of the resolution was warmly opposed by the representatives of the New-England States, — Mr. Sherman, Mr. Livermore, Mr. Ames, and Mr. Sedgwick, — all of whom joined in urging its postponement to the next session of Congress. Their motion, however, was overruled; and the House made the resolution the order of the day for the 3d of September. On that day, Mr. Goodhue, of Massachusetts, rose and announced, in the name and by the authority of the Eastern members and those of New York, that they had agreed upon the eastern bank of the Susquehanna as the permanent residence of the government; and that, until suitable buildings were erected there, the seat of government ought to remain at New York; and he offered a resolution to that effect, as a substitute for the resolution of Mr. Scott, which, he said, was too indefinite for legislative action.

This extraordinary announcement was considered as an open bid to purchase the continuance, for a yet longer period, of the government at New York, by the offer, on that condition, of the permanent seat to Pennsylvania. So unusual a proceeding naturally excited the indignation and stimulated the resistance of the Southern members. The general declaration of principles contained in Mr. Scott's resolution being adopted, — for the delegation of Pennsylvania was too far committed to that to withdraw their support, — and the question being on the adoption of Mr. Goodhue's proposition as an addition to it, Mr. Madison rose and said, —

“The gentleman who brought forward this motion was candid enough to tell us, that measures have been preconcerted out of doors, and that the point was determined; that more than half the territory of the United States, and nearly half of its inhabitants, have been disposed of, not only without their consent, but without their knowledge. After this, I hope the gentleman will extend his candor so much farther, as to show that the general principles established are applicable to this determination. . . . I hope — as it has been declared that the seat of government ought to be at or near the centre of wealth, population, and extent of territory — that gentlemen will show that the permanent seat proposed by them is near the permanent centre of wealth, population, and territory, and the temporary seat is near the temporary centre. I think we may, with good reason, call upon them for an explanation on these points, in order that we may know the ground on which the great question is decided, and be able to assign to our constituents satisfactory reasons for what some of them may consider a sacrifice of their interest, and be instrumental in reconciling them, as far as possible, to their destiny.”

This spirited and indignant call led to a labored attempt on the part of the representatives of New England and New York, in conjunction with some of the representatives of Pennsylvania, — who were now won over to the support of Mr. Goodhue's proposition, — to show that the eastern bank of the Susquehanna was, on national principles, the



proper location for the permanent seat of government. In the course of this attempt, statements were made, the accuracy of which required to be tested by investigation, and which the friends of a different site desired to confront by a careful comparison of facts drawn from authentic sources ; for which purpose a motion was made, near the usual hour of adjournment, that the committee rise, and resume the discussion on the following day. This indulgence, a matter of course in the ordinary courtesy of parliamentary proceedings, was vehemently opposed and harshly denied by the advocates of Mr. Goodhue's proposition ; and the opponents of it, thus prematurely forced into discussion, were listened to with impatience and interrupted by vexatious calls to order.

When the spirit of Southern members was moved to manly resentment by scenes such as these, Mr. Lawrance, of New York, thought to allay them by citing, with apparent triumph, a remark of Mr. Madison, made in the early part of the session, during the debate on the Tonnage Bill,—that, if the spirit of moderation and mutual conciliation which was displayed on that occasion could have been foreseen in the convention of Virginia, many of the objections there produced against the Constitution would have been obviated. On this allusion being made, Mr. Madison instantly arose, and replied in these memorable words : —

“ I acknowledge that, on a former day, I made the observation alluded to with singular compla-

cency. I said I had found a moderation and liberality prevailing here, which, I sincerely believed, if foreseen in the convention of Virginia, would have obviated a very powerful objection to the adoption of the Federal Constitution. But give me leave now to say, that, if a prophet had risen in that body, and brought the declarations and proceedings of this day into their view, I as firmly believe Virginia might not have been a part of the Union at this moment."

So dignified and impressive a rebuke, proceeding from the leading and steady champion of the Constitution, seemed to recall members at once to a sense of what they owed to one another, as well as to a common country. After a few brief remarks on the one side and the other, the question was again put on the rising of the committee, and carried in the affirmative.

On the following day, Mr. Madison entered at large into a discussion of the question before the House in Committee of the Whole; and delivered a most able, luminous, and persuasive speech, happily introduced with some observations of a general nature, conceived in a spirit of wisdom, and profound knowledge of the genius of the political system just adopted, which, if properly heeded, would render that system immortal.

"If," said he, "this delay should not have produced any alteration in the opinions of gentlemen, it will, at least, soften that hard decision which seems to threaten the friends of the Potomac. He

hoped that all would concur in the great principle on which they ought to conduct and decide this business, — an equal attention to the rights of every part of the community. No government, not even the most despotic, could, beyond a certain point, violate that idea of justice and equal right which prevailed in the mind of the community. In *republican* government, justice and equality form the basis of the system; and perhaps the structure can rest on no other that the wisdom of man can devise. In a *Federal Republic*, give me leave to say, it is even more necessary and proper that a sacred regard should be paid to these considerations. The Federal ingredient involves local distinctions, which not only produces local jealousies, but gives, at the same time, a greater local capacity to support and insist on equitable demands.”

He then proceeded to compare the rival pretensions of the Susquehanna and the Potomac for the seat of the general government, and demonstrated by an irresistible array of facts, with reference to the principles declared in the resolution adopted by the House, that the latter was nearer to the actual centre of territory; would be nearer the future centre of population; was more convenient for communication with the ocean; and, at the same time, far better consulted the interests and convenience of the western country. But all this was in vain to outweigh a foregone conclusion. The motion to insert the Potomac in lieu of the Susquehanna, in Mr. Goodhue’s proposition, was



rejected by a vote of twenty-nine to twenty-one ; and a proposition then made by Mr. Madison to add after "Susquehanna" the words, "or Potomac," so that both situations might be examined and deliberately compared, met a similar fate. At length, on the 7th day of September, the resolutions in favor of the eastern bank of the Susquehanna as the permanent, and of the city of New York as the temporary, seat of government, were passed by the House ; and a committee of three — Mr. Ames, Mr. Lawrance, and Mr. Clymer — appointed to prepare and bring in a bill in pursuance of the resolutions.

It was in this stage of the proceeding, and before the bill was reported, that Mr. Madison, on the 14th of September, wrote to his friend Judge Pendleton, and gave him its secret history. "A very important question," he wrote, "is depending on the subject of a permanent seat for the Federal government. Early in the session, secret negotiations were set on foot among the Northern States, from Pennsylvania inclusively. The parties finally disagreeing in their arrangements, both made advances to the Southern members. On the side of New England and New York, we were led to expect the Susquehanna within a reasonable time, if we would sit still in New York ; otherwise we were threatened with Trenton. These terms were inadmissible to the friends of the Potomac. On the side of Pennsylvania, which was full of distrust and animosity against New England and New

York, the Potomac was presented as the reward for the advantages of the temporary seat, if given to her by the Southern States. Some progress was made on this ground, and the prospect became flattering, when a re-union was produced among the original parties by circumstances which it would be tedious to explain. The Susquehanna has, in consequence, been voted. The bill is not yet brought in; and many things may happen. We shall parry any decision, if we can, though I see little hope of attaining our own object; the Eastern States being inflexibly opposed to the Potomac, and for reasons that are more likely to grow stronger than weaker."

On the day following the date of this letter, the bill was brought in, and on the 17th of September was taken up for consideration. Mr. Madison — opposed to it, as he was, from the deepest convictions of its injustice to the South and the West, and of its impolicy in regard to the harmony and true interests of the Confederacy — combated it, in every step of its progress, both in principle and detail, exhibiting the address and resources of a consummate parliamentary tactician, in addition to the profound abilities of the statesman. His efforts to arrest its passage by the House, as he foresaw, proved unavailing; and on the 22d of September it was sent up to the Senate. On the next day he wrote to Judge Pendleton: "The bill establishing the permanent seat of government has passed the House of Representatives in favor of the Susquehanna. Some of

the Southern members despaired so much of ever getting any thing better, that they fell into the majority. Even some of the Virginians leaned that way. My own judgment was opposed to any compromise, on the supposition that we had nothing worse to fear than the Susquehanna, and could get that at any time, either by uniting with the Eastern States or Pennsylvania. The bill, however, is by no means sure of passing the Senate in its present form. It is even possible that it may fall altogether, directly or indirectly. In case of an indirect mode, some other place will be substituted, as Trenton or Germantown; neither of which can, I conceive, be effectively established."

The event turned out as Mr. Madison conjectured. In the Senate, the bill was amended by substituting Germantown — a village adjoining the northern limits of Philadelphia — in the place of the eastern bank of the Susquehanna. This was effected by the management of one of the senators of Pennsylvania, Mr. Robert Morris, who, in a confidential letter written at the time from New York, says, "It has constantly been my view to bring the ramblers back to the Delaware. . . . I have been the prime mover in this affair, and shall continue so, until it is decided one way or the other. Madison, Grayson, & Company are very warm, but that I do not mind: they will cool again. I have worked in concert with the New-Yorkers; and we are to remain here until the buildings are erected,



which will, under all circumstances, require three years.”<sup>1</sup>

The best laid plans, however, are often doomed to disappointment; and Mr. Madison, over whom this veteran politician anticipated so certain a triumph, was at last the instrument of bringing to nought all these schemes of double and triple negotiations. When the bill, as amended by the Senate, came back to the House, instead of the simple concurrence in the amendment which was hoped for, Mr. Madison succeeded in engrafting upon it an additional amendment, which caused its return to the Senate; where, on the last day but one of the session, the further consideration of the subject was, to the great chagrin of Mr. Morris, postponed, and the bill consequently lost. Congress adjourned, to meet in New York again on the first Monday in January. They had adopted measures, as we have seen, of the highest importance for inaugurating the operations of the new government in its various departments; but they had had under their consideration none, perhaps, which stirred to a greater depth the feelings of members, or excited a livelier interest in many parts of the Confederacy, than that which, for the present, was left undecided.

Mr. Madison, knowing the deep interest felt by the President in the prospects of its ultimate adjustment, wrote to him on the 20th of November,

<sup>1</sup> See Letter in Life and Correspondence of Gouverneur Morris, vol. III. pp. 5, 6.

1789, from Philadelphia, while on his return to Virginia, and gave him the following account of a conversation he had there with Mr. Morris: —

“ A day or two after I got to Philadelphia, I fell in with Mr. Morris. He broke the subject of the residence of Congress, and made observations which betrayed his dislike of the upshot of the business at New York, and his desire to keep alive the project of a Southern arrangement with Pennsylvania. I reminded him of the conduct of his State, and intimated that the question would probably sleep for some time in consequence of it. His answer implied that Congress must not continue at New York; and that if he should be freed from his engagements with the Eastern States by their refusal to take up the bill and pass it, as it went to the Senate he should renounce all confidence in that quarter, and speak seriously to the Southern States. I told him they must be spoken to very seriously, after what had passed, if Pennsylvania expected them to listen to her; that, indeed, there was probably an end to further intercourse on the subject. . . .

“ I do not think it difficult to augur, from this conversation, the views which will govern Pennsylvania at the next session. Conversations held by Grayson, both with Morris and others in Philadelphia, and left by him in a letter to me, coincide with what I have stated. An attempt will first be made to alarm New York and the Eastern States into the plan postponed, by holding out the Poto-

mac and Philadelphia as the alternative ; and, if the attempt should not succeed, the alternative will then be held out to the Southern members. On the other hand, New York and the Eastern States will enforce the policy of delay, by threatening the Southern States, as heretofore, with Germantown or Trenton, or at least the Susquehanna ; and will no doubt carry their threat into execution, if they can, rather than suffer an arrangement to take place between Pennsylvania and the Southern States."

How accurately Mr. Madison foreshadowed the future policy of Mr. Morris and his colleagues, we shall hereafter see. But the refinement of policy by which this question was, in the end, connected with and made subservient to the interested solution of another great problem of disputed legislation, no power of divination could then foretell.



## CHAPTER XXXIX.

Extraordinary Labors of Mr. Madison during Late Session of Congress — Peculiar Confidence reposed in him by the President — Striking Instance of it — Frequently consulted by the President with regard to Business of the Executive Department — Formation of Cabinet — Hamilton and Knox respectively assigned to the Treasury and War Departments — Edmund Randolph, Attorney-General — Mr. Jefferson, though absent from the Country, and his Wishes unknown, Nominated to the Office of Secretary of State — Communications with him through Mr. Madison — His Final Acceptance — Congress re-assembles in January, 1790 — Report of Secretary of Treasury for Support of Public Credit submitted — Outline of the Report, and of the *Funding System* of the Secretary — Eager and Unconscionable Speculations in Evidences of the Public Debt — Resolutions brought forward to carry Recommendations of the Secretary into Effect — Debate upon them — Mr. Madison proposes, in Cases where the Certificates of Debt have been bought up by Speculators at a Great Discount, to divide the Full Payment, to be made out of the Treasury, in Fair Proportions between the Original Holder and the Purchaser — His Speech in support of the Proposition — Assailed by a Phalanx of Opponents — His Vigorous and Eloquent Reply — Interests of the Speculators prevail, and the Proposition rejected by a Large Majority — His Undiminished Confidence in its Justice calmly and proudly expressed in a Letter to Dr. Rush — Its Principles afterwards sanctioned by Congress and approved by the President, against Earnest Protest of Secretary of the Treasury, in the Case of the North-Carolina and Virginia Troops.

NEVER had Mr. Madison, in the various scenes of unremitted public activity in which the last fourteen years of his life had been spent, been

more laboriously and incessantly occupied than during the session, just closed, of the first Congress assembled under the Constitution. Every thing was to be created anew; and upon him as, by the confession of his adversaries,<sup>1</sup> the "first man" among the representatives of the nation, mainly devolved the task of originating, preparing, and defending the measures necessary for organizing and launching the new government. In a letter to one of his friends,<sup>2</sup> apologizing for the infrequency of his correspondence, he says, "I never had less time that I could truly call my own;" and to another<sup>3</sup> he says, "The business of Congress goes on still very slowly. We are in a wilderness, without a single footstep to guide us. It is consequently necessary to explore the way with great labor and caution. Those who may follow will have an easier task."

In addition to the demands of his legislative duties, he was often consulted by the chief magistrate of the Union with regard to matters falling within the province of the executive department. The mutual confidence of Washington and Madison was of a rare and peculiar kind. It was absolute and without reserve,—more like the relation of brothers than of friends,—founded upon an intimate knowledge of the single-minded purity of each other's purposes, and cemented by congeniality of

<sup>1</sup> See *Life and Works of Fisher Ames*, vol. I. p. 36.

<sup>2</sup> Edmund Randolph, 31st May, 1789.

<sup>3</sup> Mr. Jefferson, 5th July, 1789.

personal character, as well as union of opinion on public questions. Washington not unfrequently sought the advice of others, as well as of Madison, and always received their suggestions with deference and respect. But Madison he trusted with an absolute and unbounded trust, throwing aside every restraint of ceremony or reserve, and unbosoming to him his inmost feelings.

A remarkable proof of this fraternal confidence survives in a note addressed by him to Mr. Madison, asking his assistance in preparing an answer to the addresses of the two Houses of Congress on the occasion of his inauguration as President. Although Washington, without the advantages of a finished education, had succeeded, by his own good sense and taste, in forming a style of uncommon clearness, propriety, and force, yet, from the want of early initiation in the arts of composition, and from the modesty of his nature, he was prone to distrust himself in the literary execution of official papers. He therefore sought the assistance of Mr. Madison in the preparation of his inaugural speech. The address of the House of Representatives in response to the speech, we have already seen, was drawn by Mr. Madison; and he was also, by a singular coincidence, called on to prepare the President's answer to that address. The request was conveyed in these words:—

“MAY THE 5TH, 1789.

“MY DEAR SIR, — Notwithstanding the conviction I am under, of the labor which is imposed on you by individ-



uals, as well as public bodies, yet, as you have begun so, I would wish you to finish the good work in a short reply to the address of the House of Representatives (which I now inclose), that there may be an accordance in the business. As the first of every thing in our situation will serve to establish a precedent, it is devoutly wished, on my part, that these precedents may be fixed on true principles.

“ With affectionate regard, I am ever yours,

“ GEORGE WASHINGTON.”

A similar request was made, a few days afterwards, with respect to the preparation of the President's answer to the address of the Senate ; and in both instances the request was zealously complied with.

The published correspondence of Washington shows how frequently he called on Mr. Madison, in the commencement of the government, for his advice and opinions respecting the line of conduct proper to be pursued by him in various questions of delicacy connected with his public position and duties.<sup>1</sup> In all these consultations, a frank and unlimited confidence on the one side, was met by a cordial, sincere, and disinterested attachment on the other. In the choice of his official advisers, there can be no doubt that the attention of Washington would have been first directed to Madison, if the representative station which the latter then filled had not placed him, under the provisions of the Constitution, beyond the pale of executive

<sup>1</sup> See Letters of Washington to Madison, of 9th and 10th of August, 1789, &c., of 11th and 12th of May, in vol. x. of Sparks's Washington.

selection.<sup>1</sup> As it was, the President freely consulted with him, from time to time, with regard to the formation of his cabinet; and the first intimation of his views on that subject is found in a letter from Mr. Madison to Mr. Jefferson, written on the 27th day of May, 1789.

“It is already agreed, in the form of resolutions,” said Mr. Madison in this letter, “that there shall be three departments, — one for finance, another for foreign affairs, and the third for war. The last will be continued in the hands of General Knox. The second will remain with Mr. Jay, if he chooses to keep it. The first is also to be under one head, though to be branched out in such a way as to check the administration. Chancellor Livingston wishes this department, but will not succeed. It will be given, I think, to Jay or Hamilton. The latter is, perhaps, best qualified for that species of business, and on that account would be preferred by those who know him personally. The former is more known by character throughout the United States. I have been asked whether any appointment at home would be agreeable to you. Being unacquainted with your mind, I have not ventured on an answer.”

<sup>1</sup> The Constitution declares that “no Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments

whereof shall have been increased, during such time.” All the cabinet offices having been created by the first Congress, no member of either House could, therefore, be appointed to them during the term of that Congress.

The next step in the President's deliberations on this important matter is marked by a letter from him to Mr. Madison, dated the 9th of August, 1789, in which he says:—

“I have had some conversation with Mr. Jay respecting his views to office, which I will communicate to you at our first interview; and this, if perfectly convenient and agreeable to you, may be this afternoon, as I shall be at home, and expect no company.

“I am yours affectionately, G. W.”

It appearing, from the conversation with Mr. Jay here referred to, that he had turned his views to a situation in the judiciary department of the government, the President was relieved from any farther embarrassment with regard to the office of foreign affairs; and also that of the treasury, to which Mr. Jay was supposed to have some aspirations. Colonel Hamilton, whose qualifications for the latter office had already attracted the favorable notice of the President, and to whom the appointment was known to be particularly agreeable,<sup>1</sup> was, on the eleventh day of September, nominated to the Senate as secretary of the treasury, and, on the same day, General Knox as secretary of war. On the 24th of September, Mr. Jay was nominated as chief-justice of the Supreme Court of the United States, together with John Rutledge of South Carolina, James Wilson of

<sup>1</sup> The son and biographer of Col. Hamilton says, “This station had attracted the eye of Hamilton.”—Hist. Am. Rep., vol. iv. pp. 30, 31.



Pennsylvania, William Cushing of Massachusetts, Robert H. Harrison of Maryland, and John Blair of Virginia, as associate judges.

Although no answer had yet been received from Mr. Jefferson to the inquiry which Mr. Madison was requested to make of him in regard to his acceptance of an appointment at home, the President, deeply impressed with his eminent fitness for the department of foreign affairs, and anxious to secure the benefit of his talents and of the public consideration he enjoyed in the outset of the government, determined to nominate him at once for the office of secretary of State, which was done on the 26th of September; and his nomination, with that of Edmund Randolph of Virginia, as attorney-general of the United States, sent up to the Senate at the same time, was immediately confirmed.

Mr. Jefferson had, in November, 1788, applied for leave of absence from his post at Paris, for five or six months, in order to enable him to attend to some necessary arrangements of his affairs at home, and to bring his daughters, now grown up to womanhood, back to their friends and country. This leave was granted in the summer of 1789; and on the 26th of September he set out from Paris, with the full expectation and intention of returning there the following spring. He landed at Norfolk on the 23d of November; and, while on his way to Monticello, received the letter of the President, couched in the most cordial and flatter-

ing terms, informing him of his appointment and inclosing his commission as secretary of State. Before leaving Paris, he had written to Mr. Madison, on the 28th of August, expressing, in answer to the inquiry made of him, a strong disinclination to any other office than that which he then held, and his earnest wish, when he quitted that, to retire altogether from public employment.

It was, therefore, "with real regret," notwithstanding his just sensibility to the good opinion and personal wishes of the President, that he received information of his appointment to the office of secretary of State. "My wish," he said, in the brief autobiographical memoir written by him towards the close of his life, "had been to return to Paris, where I had left my household establishment as if there myself, and to see the end of the Revolution which, I thought, would be certainly and happily closed in less than a year. I then meant to return home, to withdraw from political life, and to devote myself to studies more congenial to my mind."<sup>1</sup> In his answer to the President, he expressed a decided preference for the post he held abroad, from the consideration of his greater familiarity with its duties and the hope of greater usefulness in it to the country; provided, however, the option allowed him between it and the appointment at home should be a matter of indifference to the President. At the same time, he submitted his own inclinations on the subject,

<sup>1</sup> See Jefferson's Writings, vol. I. p. 87.

in the most respectful manner, to the ultimate wish and final judgment of the President, as to what would be best for the interests of the public service.

Mr. Madison, while in Virginia during the recess of Congress, visited Mr. Jefferson at Monticello, and, by correcting some misapprehensions with regard to the nature and amount of the domestic business assigned to the State department, somewhat modified his repugnance to the acceptance of that appointment. A few days after this visit, Mr. Madison wrote to the President, "After all, if the whole business can be executed by any one man, Mr. Jefferson must be equal to it; if not, he will be relieved by a necessary division of it. All whom I have heard speak on the subject are remarkably solicitous for his acceptance; and I flatter myself that they will not, in the final event, be disappointed."

The President, in replying to the letter of Mr. Jefferson, abstained with great delicacy from putting any constraint upon his free and unbiassed choice between the offices in question: but expressing at the same time his opinion of the high importance of the office of secretary of State to any scheme of successful administration of the government; repeating the explanations Mr. Madison had given as to the character and extent of the domestic business annexed to it; and referring to the manifestations of "the very extensive and great satisfaction" which the news of Mr. Jeffer-



son's appointment to the office had given to the public, — it was not difficult to see on which side were the personal wishes and deliberate judgment of the President. Mr. Jefferson, therefore, no longer hesitated; and he made up his mind, at whatever sacrifice of his inclinations, to accept the appointment so honorably tendered to him.

Mr. Madison, as we learn from a letter addressed by him to the President, was detained in Virginia, by the dangerous illness of his mother, eight or ten days beyond the period allotted for his return to New York, and was subsequently delayed on the road by a serious illness of his own. He did not, therefore, arrive at New York until the 20th of January. Congress had then been in session for more than a fortnight, but no business of importance had yet been transacted. The speech of the President, at the opening of the session, was made on the 8th of January; and the addresses of the two Houses were presented a few days afterwards. On the 14th of January, an elaborate report of the Secretary of the Treasury, for the support of public credit, was received and read.

This report had been prepared in compliance with a resolution of the House of Representatives at the late session, which grew out of a memorial of the public creditors asking that provision be made for the payment of the evidences of public debt held by them. The memorial was referred to a committee, of which Mr. Madison was chairman. He reported in these terms: "That it highly con-

cerns the honor and interest of the United States, to make some early and effectual provision in favor of the creditors of the Union ; and that the House will, early next session (the present session being so near its close), take the subject into consideration." When the report of the committee came up for the action of the House, on the 21st September, 1789, they passed a resolution, declaring that " they considered an adequate provision for the support of public credit a matter of high importance to the national honor and prosperity, and that the secretary of the treasury be directed to prepare a plan for that purpose, and report the same to the House at its next meeting."

The report of the secretary of the treasury, now presented, extended over a very wide field. It seemed to have in view more the establishment of a permanent funding system, than a provision for the early payment of the public debt. A public debt, properly funded, it treated as offering many national advantages, — particularly as serving " most of the purposes of money " in exchanges, and as being so far an addition to the active capital of the nation. Its alleged beneficial effects on the trade, agriculture, and manufactures of the country were set forth ; and its tendency " to cement more closely the union of the States " was enumerated among its imputed advantages. Although the secretary disclaimed, in its unrestricted latitude, the dogma of certain writers, that public debts are public benefits, he yet expressed his persuasion,

that "the proper funding of the present debt will render it a national blessing."

As a large portion of the evidences of the public debt was now held by purchasers and speculators, he discussed at great length, and with much zeal, the question whether any discrimination should be made between them and the original holders; maintaining that such a discrimination would be alike contrary to justice, policy, and the maxims of public credit. He then proceeded to consider the debts due from the individual States, which, though not coming strictly within the scope of the inquiry referred to him, he recommended should be assumed by the Union, and be embraced in the same general provision with the debts of the United States.

The original debt of the Union, to be provided for, consisted of the foreign debt, which, with the arrears of interest upon it, amounted to near twelve millions of dollars; the liquidated domestic debt, for services performed, money lent, or supplies furnished during the Revolutionary war, amounting to somewhat more than forty millions of dollars; and the unliquidated portion of the same debt, made up chiefly of the old Continental bills of credit, which, reduced by the first scale of depreciation of forty for one established by Congress in 1780, were estimated at two millions more,<sup>1</sup> — making, in all, an

<sup>1</sup> These bills, forming what is generally called the old Continental paper money, were finally funded

at a hundred for one. See act providing for public debt, in vol. II., Laws U.S.



aggregate of about fifty-four millions of dollars. The debts of the individual States, proposed by the secretary to be assumed by the Union, were estimated at twenty-five millions of dollars, principal and interest.

In regard to the foreign debt, or that contracted abroad, it was proposed by the secretary, and universally agreed, that it should be provided for according to the precise terms of the contracts relating to it. The domestic debt it was proposed to subject to certain modifications, with the consent of the creditors. That debt, as it stood, bore an interest of six per cent ; but it was redeemable at the pleasure of the government by the payment of the principal. The creditors, it was thought, would be induced to consent to a reduction of the interest, or, what was equivalent, an abatement of the principal, by stipulations making the debt irredeemable for a long period of time. Propositions in various forms, founded on that principle, and some of them of a very complex and artificial nature, were to be submitted to the acceptance of the creditors ; the effect of which, if accepted, would be, according to the calculations of the secretary, to lower the average interest of the domestic debt to four per cent, corresponding with the general rate of interest on the foreign debt.

Instead, then, of a sum of about four millions and a half to be provided for the first year's interest of the foreign and domestic debt together, the

amount to be raised for that purpose would be brought down to two millions, two hundred and forty thousand dollars; adding to which six hundred thousand dollars for the current expenses of the government, the whole demand to be met by the budget of the year would be only two millions, eight hundred and forty thousand dollars. The assumption of the State debts, though to be declared in principle by a resolution, which should be at once adopted by Congress, was not, according to the secretary's plan, to be actually provided for until the next year. A new loan of twelve millions of dollars he proposed should be made, to pay the instalments of the foreign debt falling due within the year; to effect, by exchange, an alteration of such portions of it as bore a higher interest than four per cent; and to purchase in the market any part of it which should be offered at less than its true value. Finally, it was proposed to set apart the *net* proceeds of the post-office (a rather visionary resource), to an amount not exceeding a million of dollars, as a sinking fund, to be applied to the progressive discharge of the debt by purchases of stock in the market, or by payment on account of the principal, as should be deemed most advisable.

Such was the outline of the celebrated funding system of Colonel Hamilton, which, whether viewed in the light of its original provisions or judged by its practical operation, promised any

thing rather than an early extinguishment of the national debt.<sup>1</sup>

The secretary's report, after being read in the House, was directed to be printed and made the order of the day for that day two weeks. In the mean time, speculation in the evidences of the public debt received a new impetus among those whose proximity to the seat of government gave them peculiar facilities of information as to the plans of the secretary, and the probable action of the public councils. Even in anticipation of the appearance of the report, knowledge having been obtained of the general tenor of its recommendations, a sudden rage for speculation broke forth, which, if tradition is to be credited, extended to members of Congress themselves. Mr. Madison, writing to Mr. Jefferson from New York on the 24th of January, four days after his arrival there, says: —

“Prior to the report's being made, the avidity for stock had raised it from a few shillings to eight or ten shillings in the pound; and emissaries

<sup>1</sup> Mr. Madison, in answer to a letter from Col. Hamilton requesting his views on the financial problem, had not failed to intimate to him the importance he attached to keeping the extinguishment of the public debt prominently in view.

“I consider it as very desirable,” he said, “that the provision to be made should be such as will put the debt in a manifest course of extinguishment. There are respectable opinions, I know, in favor of pro-

longing, if not perpetuating it. But, without entering into the general reasoning on that subject, there are considerations which give a peculiarity to the case of the United States. One is, that such a policy is disrelished to a degree which will render heavier burthens for discharging the debt more acceptable than lighter ones, not having that object in view.”—Letter of J. Madison to A. Hamilton, 19th November, 1789.



ries are still exploring the interior and distant parts of the Union, in order to take advantage of the ignorance of holders."

On the 28th of January, a member asserted on the floor of the House, that "since this report has been read, a spirit of havoc, speculation, and ruin has arisen, and been cherished by people who had access to the information the report contained, which would have made a Hastings blush to have been connected with, though long inured to preying on the vitals of his fellow-men. Three vessels have sailed within this fortnight from this port, freighted for speculation. They are intended to purchase up the State and other securities in the hands of uninformed, though honest, citizens of North Carolina, South Carolina, and Georgia."<sup>1</sup>

It was under these circumstances, that the discussion opened on the report in the House of Representatives. The galleries were crowded with an unusual number of auditors,<sup>2</sup> many of them drawn thither, doubtless, by their deep personal stake in the issue of the deliberations. A series of resolutions was offered, embodying the recom-

<sup>1</sup> See speech of Mr. Jackson, of Georgia, in Lloyd's Debates, vol. III. p. 189. These statements would seem to justify the strong picture drawn by Mr. Jefferson many years afterwards, when recording his recollections of this period: "Couriers and relay horses by land, and swift-sailing pilot-boats by sea, were flying in all directions. Active partners and agents were

associated and employed in every State, town, and country neighborhood; and this paper was bought up at five shillings, and even as low as two, in the pound, before the holder knew that Congress had already provided for the redemption at par."—Jefferson's Writ. (Rand. ed.), vol. IV. p. 447.

<sup>2</sup> Lloyd's Register, vol. III. p. 193.

mendations of the report. The first, affirming the propriety of making adequate provision for fulfilling the engagements of the United States with respect to their foreign debt, was passed unanimously and without debate.

The second, declaring that "permanent funds ought to be appropriated for the payment of interest on, and the gradual discharge of, the domestic debt," gave rise to a debate, which continued for two days. A motion was made by Mr. Scott, of Pennsylvania, to add to the resolution the qualifying words, "as soon as the same shall be ascertained and duly liquidated." The proposed amendment proceeded on the idea, that, while the foreign debt must be paid according to the face of the contract, the domestic debt was subject to the discretion of the government; and that, much of it having been contracted in a depreciated currency, its nominal amount should now be reduced by a specie standard. To this it was answered, that the domestic debt, in every instance except that of the outstanding Continental bills of credit, was the result of a formal and final settlement with the creditors; and that its nominal amount could not be reduced, without a breach of the public faith. The motion was, therefore, rejected.

\* In this stage of the proceeding, Mr. Madison, recognizing explicitly the obligation of the government to pay the full amount of the domestic as well as foreign debt, both principal and interest, according to the face of the contract; but feeling

deeply the injustice of making the whole payment to the speculator, who had taken advantage of the ignorance or distresses of the holder, and acquired the debt, in many instances, at one-eighth of its value, proposed in such cases to divide the payment in fair proportions between the parties, — allotting to the purchaser the highest rate of public securities in the market, and paying the balance of the sum due from the public to the original holder. This proposition of Mr. Madison rose above the narrow maxims of mere mercantile or technical justice; and appealed to those principles of an elevated, paternal justice, which should regulate the conduct of a wise and magnanimous government in adjusting the relative rights and conflicting claims of different classes of its citizens. As it was vehemently assailed at the time by interested parties, and has been the subject of misrepresentation by political adversaries since, it is due to the cause of truth and justice to give a brief sketch of the principles by which he sustained it, when offering it to the consideration of the House.

He examined first the claims of the original holders, and said: “They may appeal to *justice*, because the value of the money, the service, or the property advanced by them has never been really paid to them. They may appeal to *good faith*, because the certificates, which were in fact forced upon them by the government, cannot be fairly adjudged an extinguishment of the debt. They



may appeal to the motives for establishing *public credit*, for which justice and faith form the natural foundation. They may appeal to the *precedent* furnished by the compensation allowed to the army during the late war for depreciation of bills, which nominally discharged the debts due to them. They may appeal to *humanity* ; for the sufferings of the military part of the creditors can never be forgotten, while sympathy is an American virtue ; to say nothing of the singular hardship, proclaimed by so many mouths, of requiring those who have lost four-fifths or seven-eighths of their due to contribute the remainder in favor of those who have gained in the contrary proportion."

Stating with fairness, and even with liberality, the claims which might be alleged on behalf of the purchasers of the public securities, he proceeded : " Such, then, being the interfering claims on the public, one of three things must be done, — pay both, reject wholly one or the other, or make a composition between them on some principle of equity. To pay both is perhaps beyond the public faculties ; and, as it would far exceed the value received by the public, it will not be expected by the world, nor even by the creditors themselves. To reject wholly the claims of either, is equally inadmissible. Such a sacrifice of those who hold the written engagement of the government would be fatal to the establishment of public credit. To make the other class the sole victims was an idea at which human nature recoiled. A composition,

then, is the only expedient that remains. Let it be a liberal one, in favor of the present holders ; let them have the highest price which has prevailed in the market ; and let the residue belong to the original sufferers."

He then adverted to the peculiar circumstances of the case, which rendered the ordinary maxims of commercial justice inapplicable to the subject before them. "I cannot," he said, "but regard the present case as so extraordinary, in many respects, that the ordinary maxims are not strictly applicable to it. The fluctuations of stock in Europe, so often referred to, bear no comparison with those in the United States. The former never exceed fifty, sixty, or seventy per cent. Can it be said, that, because a government thought this evil insufficient to justify an interference, it would view in the same light a fluctuation amounting to seven or eight hundred per cent? I am of opinion, that were Great Britain, Holland, or any other country, to fund its debts precisely in the same situation as the American debt, some equitable interference of the government would take place. The South-Sea scheme, in which a change, amounting to a thousand per cent, happened in the value of the stock, is well known to have produced an interference, and without any injury whatever to the subsequent credit of the nation."

He concluded the exposition of his proposition with these remarks: "It may be objected that such a provision as I propose will exceed the public

ability. I do not think the public unable to discharge honorably all its engagements, or that it will be unwilling, if the appropriations shall be satisfactory. I regret as much as any member the unavoidable weight and duration of the burthens to be imposed,—having never been a proselyte to the doctrine, that public debts are public benefits. I consider them, on the contrary, as evils which ought to be removed as fast as honor and justice will permit, and shall heartily join in the means necessary for that purpose. I conclude with declaring, as my opinion, that if any case were to happen among individuals, bearing an analogy to that of the public here, a court of equity would interpose its redress; or that, if a tribunal existed on earth by which nations could be compelled to do right, the United States would be compelled to do something not dissimilar in its principles to what I have contended for.”<sup>1</sup>

The proposition of Mr. Madison aroused at once a phalanx of opponents, advocating with great zeal the exclusive rights and interests of the purchasers of the public debt. Mr. Sedgwick and Mr. Ames of Massachusetts, Mr. Lawrance and Mr. Benson of New York, Mr. Boudinot of New Jersey, Mr. Smith of South Carolina, all rose in succession, to combat the views of Mr. Madison. They dwelt, with forensic exaggeration, on the sanctity of the legal rights acquired by the purchaser; drew highly colored pictures of the injury to public

<sup>1</sup> See the whole speech in Lloyd's Debates, vol. III. pp. 321–326.



credit from any disregard of the *letter* of those rights, or an agitation even of the question ; and appealed to the sentiments of commercial rigor in favor of the exact fulfilment of the written engagements of the government, into whatsoever hands they may have fallen or by whatsoever means acquired. Some of these speakers, particularly Mr. Ames, mingled with their arguments a tone of animadversion, which provoked from Mr. Madison, with all his habitual observance of the courtesies of parliamentary debate, a lofty and caustic reply.

“ His proposition,” he said, “ had been arraigned as embarrassing measures which ought to be facilitated, and producing discussions which might end in disagreeable consequences. However painful it might be to contradict the wishes of gentlemen whom he respected, he could promise nothing more, in the present case, than his endeavors to disappoint their apprehensions. When his judgment could not yield to the propositions of others, the right to make and support his own was a right which he could never suffer to be contested.”

Alluding, then, to the elaborate efforts that had been made to brighten the pretensions of the purchasing, and discredit those of the original, holders of the public securities, he said, “ He must renounce every sentiment he had hitherto cherished, before his complaisance could admit that America ought to erect the monuments of her gratitude, not to those who saved her liberties, but to those who had enriched themselves in her funds. . . . He

begged gentlemen not to yield too readily to the artificial niceties of forensic reasoning. It was a great and an extraordinary case. It ought to be decided on the great and fundamental principles of justice. He had been animadverted upon for appealing to the heart as well as the head. He would be bold, nevertheless, to repeat, that, in great and unusual questions of public morality, the heart is the best casuist."

To a charge of inconsistency insinuated against him, on account of the language used by him in the address of Congress in 1783, he replied: "He had been repeatedly reminded of the address of Congress in 1783, which rejected a discrimination between original and purchasing holders of public securities. At that period, the certificates to the army and citizens at large had not been issued. The transfers were confined to loan-office certificates, were not numerous, and had been, in great part, made with little loss to the original creditor. At present, the transfers extend to a vast proportion of the whole debt; and the loss to the original holders had been immense. The injustice which has taken place has been enormous and flagrant, and makes redress a great national object."

The alleged injury to public credit from the principles of his proposition, he thus victoriously retorted upon his opponents:—

"Objections to the measure had been drawn from its supposed tendency to impede public

credit. He thought it, on the contrary, perfectly consistent with the establishment of public credit. It was in vain to say that government ought never to revise measures once decided. Great caution on this head ought, no doubt, to be observed. But there were situations in which, without some legislative interposition, the first principles of justice, and the very ends of civil society, would be frustrated. . . . The best source of confidence in government was the apparent honesty of its views. His proposition could not possibly be ascribed to any other motive than this, because the public was not to gain a farthing by it. He was more apprehensive of injury to public credit from such modifications of the interest of the public debt as some gentlemen seemed to have in view. In these, the public would be the gainer; and the plea of inability the more alarming, because it was so easy to be set up, so difficult to be disproved, and for which, consequently, the temptations would be so alluring.”<sup>1</sup>

In the course of the discussion, Mr. Benson of New York, with great apparent triumph, and not in the most delicate manner, addressed himself to Mr. Madison, and asked him, if he were in the place of a soldier who had parted with his certificate, no matter at what price, whether he could afterwards conscientiously accept from the government the difference between that price and the

<sup>1</sup> The reply of Mr. Madison, given, will be found in Lloyd's Debates, vol. III. pp. 412-421.



nominal amount of his certificate, instead of yielding the whole to the purchaser. Mr. Madison, after answering the hypothetical question in a manner consistent alike with the principles of personal honor and an enlightened public justice, returned the inquiry of the gentleman from New York, by addressing to him this searching and powerful appeal: —

“I would beg leave now, in turn, to ask the gentleman a question. Suppose he had been one of those who resorted to our army at the time it was disbanded, and had found a soldier — one of that band who had established the liberties of his country, and had heard the declaration of his beloved commander, ‘That his country would finally do him ample justice’ — turned loose, not with the payment in gold or silver solemnly stipulated, but with a piece of paper, such as was substituted; and suppose that the gentleman had obtained from the necessities of the soldier the evidence of his claim at a tenth of its value, and was now to have the principal and interest of that claim funded in his own favor, — I ask whether the delicacy of the gentleman would not be shocked at the reflection, that this exorbitant accumulation of gain was made at the expense of the most meritorious part of the community, and whether his conscience could refuse a participation of it to the sufferer?”<sup>1</sup>

But in spite of every appeal, and whatever might be the abstract justice of Mr. Madison’s proposition,

<sup>1</sup> See Lloyd’s Debates, vol. III. pp. 422, 423.

the speculations in the evidences of the public debt had been too extensive, and the interest begotten by them too powerful, to be overcome. After a week's debate, in which Mr. Madison stood against his host of opponents with a moral and intellectual power that shone brighter and brighter to the last,<sup>1</sup> his proposition was put to the vote, and rejected by a very large majority. The following extract of a letter, written by him a few days afterwards, to a distinguished correspondent, shows the elevated and self-poised integrity which sustained him in the discharge of his public duties, irrespective of success : —

“ It not only gives me pleasure, but strengthens my conviction, to find my sentiments ratified by those of enlightened and disinterested judges. The advantage enjoyed by public bodies, in the light struck out by the collision of debate, is but too often overbalanced by the heat proceeding from the same source. Many other sources of involuntary error might be added. It is no reflection on Congress to admit for one the united voice of the place where they happen to deliberate. Nothing is more contagious than opinion, especially on questions which, being susceptible of very different glosses, beget in

<sup>1</sup> There is, perhaps, not to be found in the parliamentary annals of any country an instance in which argument and eloquence, both of the very highest order, were more strikingly combined than in Mr. Madison's exposition and defence of his proposition relating to this

portion of the public debt. Judge Marshall, though of the party opposed to him, refers, in a very special and emphatic manner, to “ *the eloquent speech, replete with argument,*” made by Mr. Madison on the occasion. — See *Life of Washington*, vol. II. p. 182.

the mind a distrust of itself. It is exceedingly difficult, also, to avoid confounding the local with the public opinion, and to withhold the respect due to the latter from the fallacious specimens exhibited by the former. Without looking, therefore, beyond innocent causes of fallibility, I can retain the sentiments which produced the late motion, notwithstanding the disproportion of numbers by which it was voted down. Indeed, it seems scarcely possible for me ever to be persuaded that there is not something radically immoral, and consequently impolitic, in suffering the rewards due for the most valuable of all considerations, the defence of liberty, to be transferred from the gallant earners of them to that class of people who now take their places.”<sup>1</sup>

But the principles on which Mr. Madison supported his proposition were destined to receive an explicit recognition from Congress itself, two months later, in a case which did not admit, like

<sup>1</sup> Letter to Dr. Rush, of Philadelphia, dated 7th of March, 1790. In this letter, Mr. Madison refers only to “innocent causes of fallibility” operating on the decision of Congress. It is well known, however, that members of the body were accused, at the time, of speculating in the certificates of public debt, which were the objects of their deliberations; and the names of individual members have been associated with these transactions. Mr. Madison was governed by an habitual delicacy in speaking of matters involving personal imputations; but the language used by him, in a

paper addressed to a confidential friend many years afterwards, leaves no doubt of his belief of the imputed abuse.

“Such,” he says, “was the spirit stimulated by the prospect of converting the depreciated paper into par value, that it seized members of Congress, who did not shrink from the practice of purchasing, through brokers, the certificates at little price, and contributing by their votes, at the same moment, to transmute them into the value of the precious metals.”—See communication addressed by him to J. R. Paulding, Esq., in January, 1832.



the public debt at large, of a combination of interests sufficiently extensive to overpower the evidence of their justice. An appropriation having been made at the previous session of Congress for certain arrears of pay due to the troops of the North-Carolina and Virginia lines, those claims had been bought up for a consideration much below their value, and assignments of them obtained by speculators, who took advantage of the ignorance or distresses of the claimants. Under these circumstances, a proposition was made, and resolutions were passed by Congress, virtually to annul the assignments, by directing the secretary of the treasury to pay the arrears in question only to the original claimant, or to such persons as should produce a power of attorney from the original claimant, duly attested by two justices of the peace, authorizing the receipt of a specific sum.

The secretary of the treasury was much annoyed by the passage of these resolutions, which he felt to be in direct conflict with the principles of his report on the public debt, and as giving an explicit sanction to the principles on which Mr. Madison rested his proposition. He prepared, therefore, an elaborate argument against the resolutions, when they came before the President for his approval, and made an earnest appeal to him to arrest them by the application of the executive veto. All the topics, which had been employed against Mr. Madison's proposition, were now repeated, and zealously enforced in this paper.

“The resolutions,” he said, “were an infraction of the rights of individuals acquired under pre-existing laws, and a contravention of the public faith pledged by the course of public proceedings. They have, consequently, a tendency not less unfriendly to public credit than to the security of property. . . . The principles which appear to the secretary to have been invaded in this instance are in his estimation of such fundamental consequence to the stability, character, and success of the government, and at the same time so immediately interesting to the department intrusted to his care, that he feels himself irresistibly impelled by a sense of duty, as well to the chief magistrate as to the community, to make a full communication of his impressions and reflections.”<sup>1</sup>

In spite of the zealous importunity of this appeal, the resolutions were approved by the President; and they now stand upon the statute-book, a final and concurrent testimony, of both the legislative and executive authorities of the government, to the rectitude of the principles for which Mr. Madison had contended.

<sup>1</sup> See Hamilton's Works, vol. iv. pp. 15-21.

## CHAPTER XL.

Proposed Assumption of State Debts — Political Objects avowed by the Secretary of the Treasury in recommending it — Opposed by Mr. Madison, in conjunction with Mr. Livermore of New Hampshire, and Mr. Stone of Maryland — Sustained, with Great Warmth, by Representatives of Massachusetts, Connecticut, and South Carolina — After a Debate of Several Weeks, rejected by a Vote of Thirty-one to Twenty-nine — Violent Discontents at this Decision — Mr. Sherman renews the Proposition — Powerful and Eloquent Speech of Mr. Madison in opposition to it — Again rejected — Renewed a Third Time by Mr. Gerry, and a Third Time rejected — Connected at length, by a Legislative Bargain, with Question of Temporary and Permanent Seat of Government — Letters of Mr. Ames — Menaces of Dissolution of the Union — Mr. Jefferson's Statement of what passed with Colonel Hamilton — Finally carried through the Two Houses by a Close Vote, in conjunction with a Bill giving the Seat of Government for Ten Years to Pennsylvania, and fixing it ultimately on the Eastern Bank of the Potomac — In this Violent and Protracted Struggle for Assumption of State Debts, commences the Division of Political Parties, under the denomination of "Federalists" and "Republicans" — Colonel Hamilton becomes the Idol and Leader of the Federal Party — Their Bitter Denunciations of Mr. Madison — Falsely accused by them of patronizing the Doctrine of the Repealability of the Act pledging the Public Faith for the Payment of the Public Debt, on the Principle that the "Legislative Authority has no Right to bind Posterity" — Falsity of the Charge proved by Able and Profound Letter of Mr. Madison to Mr. Jefferson at the Time, in which he denies and confutes the Alleged Dogma.

THE questions relating to the debts proper of the United States being disposed of, the resolution em-



bodying the recommendation of the secretary's report with regard to the State debts, and which declared that "the debts of the respective States ought, with the consent of the creditors, to be assumed and provided for," was next taken up. No subject has ever given rise to a more earnest and protracted struggle in the public councils of America, than this. It was not denied that all expenses incurred by the several States in the prosecution of the war for independence ought to be considered a common charge. The articles of Confederation had expressly declared that "all charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, to be supplied by the several States" according to a certain ratio.

The obligation of the States to make these contributions to the common treasury, when called on by Congress, was solemn and unequivocal. They had, moreover, all of them, received from time to time advances out of the treasury, on account of military operations and expenses within their respective limits. These advances, as well as "the balances due from them on their several quotas of the requisitions" of Congress, were in justice, as well as by positive law, to be deducted from the expenses paid and debts incurred by them in the common cause, before the true measure of the obligations of the Union towards them could be ascer-

tained.<sup>1</sup> Arrangements had, therefore, been made by Congress, and were now in process of execution, to settle the accounts between the individual States and the Union on these principles.

Under such circumstances, the recommendation contained in the secretary's report for assuming, at once, the gross amount of the debts due from the States to their individual creditors, took the public generally by surprise. Many of the States had been diligently engaged, ever since the peace, in reducing by payments the amount of the debts incurred by them in the prosecution of the war, — content to look to the government of the Union for re-imbursement of whatever balances should appear, upon a final settlement of account, to be due to them. The secretary's recommendation was dictated much more by his particular views of governmental policy, than by any supposed obligations of justice. As long as the States had their separate debts, they would have their own systems of finance ; and these, it was apprehended, would interfere with the fiscal operations of the general government. The whole body of public creditors, State as well as national, forming, moreover, a powerful influence in the community, it was thought a matter of great importance to enlist them all on the side of the general government, by connecting their pecuniary hopes and expectations exclusively with it.

These considerations were shadowed forth, in general terms, in the report. "The danger of in-

<sup>1</sup> See Ordinance of Congress, of 7th of May, 1787.

terference [from the State systems of finance],” it was said, “would be apt to impose restraints very unfriendly to the complete command of those resources which are the most convenient.” With regard to the public creditors, it was said, “If all of them receive their dues from one source, distributed with an equal hand, their interest will be the same; and, having the same interests, they will unite in favor of the fiscal arrangements of the government.” These considerations were more distinctly avowed by Colonel Hamilton, two years later, in a letter to a friend referring to the transactions of this period; in which he expressly declared, that “the leading objects of the assumption of the State debts, as recommended by him, were an accession of strength to the national government, and an assurance of order and vigor in the national finances, by doing away the necessity of thirteen complicated and conflicting systems of [State] finance.”<sup>1</sup> These objects secured, the addition of twenty-five millions to the national engagements was deemed a matter of but little moment.

The discussion in the House of Representatives, on the proposition for the assumption of the State debts, opened on the 23d of February, 1790. There were three States — Massachusetts, Connecticut, and South Carolina — especially and deeply interested in the proposition; it appearing, from a list of the State debts which accompanied the secretary’s re-

<sup>1</sup> Letter of Colonel Hamilton to Colonel Edward Carrington of 26th May, 1792, in *Hist. Am. Rep.*, vol. iv. p. 523.



port, that more than one-half of the aggregate of the debts reported was due from those States. The discussion was commenced by Mr. Livermore, of New Hampshire, who demanded, —

“Are the creditors of the respective States, or the States themselves, clamorous for the measure? They have not as yet applied to Congress on this head. Perhaps the creditors are satisfied with what the States have done for them. Why, then, are we to undertake a work of this extent, when nothing appears to show its necessity, or even propriety? Is not the task of providing for the real debts of the Union sufficiently arduous, without undertaking more, when more is unnecessary? Besides, will not the assumption of more debts than we owe disable us from doing our real creditors justice? And will they not have a right to complain of our conduct? But the merits and amounts of these debts are both unascertained. It would argue a want of foresight to adopt a measure wrapped up in uncertainty. We know there are commissioners appointed and employed in the settlement of the accounts between the individual States and the United States. Let us know first from them what balances are due to the respective States, before we undertake to assume them.”

Mr. Stone, of Maryland, followed Mr. Livermore on the same side of the question. He discussed the subject more particularly in its political aspects.

“A strong, binding force, exterior or interior,”

he said, "is supposed essentially necessary to keep together a government like ours; and, of all the bands of political connection, perhaps there is none stronger than that which is formed by a uniform, compact, and efficacious chain or system of revenue. A greater thought could not have been conceived by man; and its effect, I venture to predict, if adopted by us and carried into execution, will prove to the Federal government a wall of adamant, impregnable to any attempt on its fabric or operations. . . . I shall detain the committee a very little while in examining how far the proposed scheme is connected with that idea. I think, sir, wherever the property is, there will be the power. If the general government has the payment of all the debts, it must, of course, have all the revenue. If it possesses the whole revenue, it is equal, in other words, to having the whole power. . . . Hence I am led to believe, that, if the whole revenue of the several States is taken into the power of Congress, it will prove a band to draw us so close together as not to leave the smallest interstice of separation.

"There is another observation I mean to make. It does not appear to me that the debts of the particular States are the debts of the United States. State debts, and debts of the United States, are hardly convertible terms. And I question very much whether it is strictly within our constitutional power to levy taxes and collect duties, unless it be to pay the debts of the United States. Will

it be admitted, that Congress can adopt any debts they think proper, whether they come within the idea of being debts contracted for the purposes of the Confederacy, or not? The object expressed in the Constitution is simply to pay the debts of the United States. Can Congress, by their own authority, saddle the United States with a debt of this magnitude, independently of the particular power they derive from the Constitution; and then justify the collection of taxes under the general powers of the Constitution?"

Mr. Madison, on the following day, stated with great dignity and moderation his objections to the proposition before the House. Mr. Stone had admitted, that a larger amount of revenue could probably be raised by the exercise of a sole authority under the United States, than by the concurrent action of the general and State governments. From this opinion Mr. Madison dissented. He said there were resources of internal taxation which could be much better brought into operation by the State governments than by the national authority; and he declared his conviction, that the authority of the United States and of the individual States, taken together, will draw more revenue than either can draw separately from the same sources.

"Some gentlemen," he continued, "have made the passage of this resolution a *condition* of providing for the acknowledged debt of the United States. I think this a preposterous condition, and a language improper to be held after the decision



which has taken place. In priority of time and obligation, we ought to provide for the acknowledged debt of the Union. Before we enter into a new obligation, we should see how far we are able to discharge those positively due by us."

He then brought into view the inequality and injustice of the proposed assumption of the State debts in their existing condition, as it affected those States which, by their faithful and persevering exertions, had greatly reduced the amount of their debts since the close of the war. If the debts of the States were to be assumed, the only means, he contended, of effecting equal justice among the States would be to assume those debts as they stood at the close of the war. "If this is not done," he said, "what is the consequence? The citizens of a State will be burthened in proportion as their State has made exertions to discharge its obligations. For instance, suppose that one State has paid the whole of her debt, and another paid none, if you assume the unpaid without the paid, the State which has already paid off what it owed will be burthened to pay the debt of the other."

To obviate this injustice, he proposed, a few days afterwards, an amendment to the resolution before the House; but his amendment was rejected by a vote of twenty-eight to twenty-two.

The leading champions of the resolution were the representatives of the three States already mentioned as having the largest relative proportion of outstanding debt. The members for Massachu-

setts — Mr. Sedgwick, Mr. Ames, Mr. Goodhue, Mr. Gerry — were particularly distinguished by their excited zeal. They contended that the State debts incurred during the war were, in truth, the debts of the United States; that they were absolutely obligatory upon the Union; that, in the case of Massachusetts, they were burthens too grievous to be borne; and significant allusions were made to the insurrection of 1786-87 as an admonition of the too probable consequences of leaving those burthens to weigh with undiminished pressure upon the people of that State. Mr. Sherman of Connecticut, and Mr. Smith of South Carolina, while equally earnest in their advocacy of the proposition, were far less vehement and aggressive in their tone.

Those representatives of other States, who gave their support to the proposition, were influenced by considerations of policy rather than of justice. Mr. Fitzsimmons, of Pennsylvania, a sober friend of assumption, took occasion, after a speech of an extreme character from Mr. Sedgwick, to enter a formal protest against the doctrines urged by the latter in favor of the proposition. "I am in favor," he said, "of the assumption of the State debts; but I do not subscribe to the doctrine held by the gentleman last up. I do not think the United States are under an equal obligation to pay the private debts of each separate State, as they are to pay those which they, in their collective capacity, incurred. I think it a matter of good

policy; and that alone will lead me, if we have it in our power, to provide as effectually for the State debts as for any debt due from the Union. But still I must insist upon it, that they stand on a different footing from the domestic debt of the United States.”<sup>1</sup>

After a discussion of near three weeks in Committee of the Whole, the committee, on the 13th of March, reported to the House, with other resolutions growing out of the report of the secretary of the treasury, the one in favor of the assumption of the State debts. It had been carried in the committee by a majority of only five votes.<sup>2</sup> The resolutions were taken up in the House on the 29th of March. In the mean time several of the representatives of North Carolina had arrived, and taken their seats. The resolutions being read, a motion was made to recommit the resolution re-

<sup>1</sup> Lloyd's Debates for 2d of March, 1790.

<sup>2</sup> See manuscript letter of Mr. Madison to Edmund Randolph, of 14th March, 1790. In this letter Mr. Madison says, “A disposition appears in the committee to shorten the duration of the debt, which, according to the secretary's report, would subsist forty or fifty years,—a period that, considering intermediate probabilities, would amount to a perpetuity.” In the discussion on this feature of the secretary's plan, favoring a long period of irredeemability of the public debt, Mr. Ames, in an elaborate and carefully prepared speech, earnestly

supported the secretary's views, of which he was, doubtless, the indoc-trinated as well as authorized exponent. He was briefly answered by Mr. Madison, who urged a much more rapid process for the extinguishment of the debt. “The gentleman,” he said, “had drawn a pleasing, and he hoped a true, picture of the growing prosperity of this country. But what should result from it? Not that the debt should be perpetuated, but that we should be able to begin a reduction of the principal; and ought not, therefore, to throw away the right to do so.”—See Lloyd's Debates for 11th March, 1790.



lating to the assumption of the State debts ; and, after an animated debate, the motion prevailed by a vote of twenty-nine to twenty-seven.

On the following day, the partisans of assumption moved also to recommit the resolutions providing for the acknowledged debt of the Union ; declaring the two subjects to be, in their estimation, inseparable, and that the one must share the fate of the other. This was strongly remonstrated against, as unreasonable and improper ; but the remonstrance was in vain. The entire subject of the secretary's report was, therefore, again before the Committee of the Whole ; and the discussion upon the assumption of the State debts renewed with increased vehemence and zeal. At length, on the 12th of April, the question was again put on the assumption, and decided in the negative by a vote of thirty-one to twenty-nine.

This produced a violent and unparliamentary explosion of indignation from one of the representatives of Massachusetts, Mr. Sedgwick. As soon as the decision of the committee was announced, he rose, and, among other passionate denunciations, said, " Can it be believed that the government of the people of Massachusetts will voluntarily submit to sacrifice the interests of twenty thousand men, who adventured their lives and estates in the common cause ? Shall the first operations of this government, which I fondly hoped would move on national ground, and regulate its conduct by enlarged and liberal policy, be the impoverishment of

such and so many confiding citizens? . . . I warn, solemnly warn, gentlemen of the dangerous consequences, in the progress of this business, of invading those funds which are pre-occupied by that State."

When, two days afterwards, a motion was made to go into Committee of the Whole, for the purpose of proceeding with the resolutions providing for the foreign and domestic debt of the Union, the motion was warmly resisted by several of the advocates of assumption, who opposed any further proceeding in regard to the debts of the Union, until a plan of accommodation should be agreed to with respect to the assumption of the State debts. In the contemporary report of the debates of Congress of this period, we are told, "The House was warmly agitated on this subject for a considerable length of time. Several members were called to order; and a variety of motions respecting order were made."<sup>1</sup>

At length, upon a call of the yeas and nays, the House determined to go into Committee of the

<sup>1</sup> See Lloyd's Debates for 15th April, 1790. Mr. Madison, writing to Mr. Monroe two days later (the 17th of April), says, —

"The House of Representatives is still at the threshold of the revenue business. The assumption of the State debts is the great obstacle. A few days ago, it was recommitted, and rejected by thirty-one to twenty-nine. The measure, however, is not abandoned. It

will be tried in every possible shape by the zeal of its patrons. The Eastern members talk a strange language on the subject. They avow — some of them, at least — a determination to oppose all provision for the public debt which does not include this, and intimate danger to the Union from a refusal to assume. We shall risk their prophetic menaces, if we should continue to have a majority."

Whole, and proceed with the resolutions providing for the debt of the Union. Mr. Sherman, on the 21st of April, proposed to engraft on one of these resolutions a provision, in a somewhat modified form, for assuming the State debts. This proposition was ably opposed by Mr. Madison, in a speech more extended and elaborate than he had hitherto made on the subject. He commenced by saying,—

“It is not without much reluctance that I trouble the committee with any further observations on a subject which has been so long under discussion, and may be thought to be entirely exhausted. I must refer for my apology to the uncommon perseverance with which the advocates for assumption adhere to their object, notwithstanding the difficulties which oppose it.” He then reviewed in succession the arguments by which the advocates of the measure had urged its adoption. The doctrine that the State debts are in their nature the debts of the United States, he showed to be utterly unsustainable, either upon principle or by authority. In this connection, he noticed particularly the argument which had been deduced from the declaration in the Constitution, that all debts contracted, or engagements entered into, before the adoption of the Constitution, shall be as valid against the United States under the Constitution, as under the Confederation.

“What,” he asked, “was the situation of the State debts before the adoption of the Constitution? Was it understood that they were a part of the



debt of the United States any further than there might be found a balance on a final settlement? Was it ever supposed that they were to be thrown into one common mass, and that the States should be called on collectively to provide for them? What would have been thought of such a proposition? Would it have been considered as consistent with equity? Would it have been thought constitutional? I am persuaded, if such a proposition had been made in the old Congress, it never would have found a second; and for this reason, that the debts of the particular States were never considered as the debts of the United States."

To the argument of hardship and injustice, founded on the situation of particular States, burthened by the magnitude of their debts incurred in the common cause, he replied by the following striking parallel between the cases of Massachusetts and Virginia: —

"Much has been said of the situation of particular States, in case these debts should not be assumed. Much, indeed, has been said of the distresses and exertions of Massachusetts. But, if we are to be governed by inquiries of this sort, we must extend them to every part of the Union; and we shall then find, that an assumption will give as much dissatisfaction and work as much injustice to a majority of the States, as non-assumption may disappoint the citizens of Massachusetts. I do not wish to go into local inquiries; but the present subject seems, in its nature, to make them unavoidable.

The conduct of gentlemen on the other side at least renders the task on this indispensable.

“What would be the operation of the measure with respect to Virginia? It will not be denied that Virginia sacrificed as much during the war in one shape or another, and contributed as much to the common defence of the States, as any among them, — certainly as much as Massachusetts. These are facts that can, in time, be proved. Since the peace, that State has made great exertions to comply with the requisitions of Congress. I might say, sir, that she was almost unequalled in her exertions. Her specie payments into the Federal treasury, since the peace, exceed six hundred thousand dollars; whereas those of Massachusetts are only between two and three hundred thousand. In indents, Massachusetts has, indeed, paid most; but by no means in such proportion as to balance the difference in the specie payments.

“The exertions of Virginia to discharge the debt she involved herself in by the war have also been very great: she is not behind any of the States; she is before most of them. There can be no doubt but that she has discharged more of her debts than Massachusetts; and as little doubt that, whenever a final settlement shall take place, she will be found a creditor to the United States. If, during the war, she has made as great exertions and has suffered as much as any of the States; if she has, since the peace, paid her full proportion of the supplies to the Federal treasury, at the same time exerting her-

self to the utmost to discharge her State debt; and if, finally, she will probably be found in advance to the Union, and would therefore, if justice could at once be done, be now entitled to a reimbursement, — what must be said by the citizens of that State, if, instead of a reimbursement, they are called on to make further advances?"

To the appeal made to him as a friend of the Constitution, — that the assumption of the State debts would add strength to the national government, — he answered with equal significance and propriety, "There is no man more anxious for the success of the government than I am; and no one who will join more heartily in curing its defects. But I wish these defects to be remedied by grants of additional constitutional powers, if they should be found necessary. This is the only proper, effectual, and permanent remedy."

He concluded by addressing, in return, a lofty and spirited expostulation to the over-zealous champions of assumption. "I cannot finish my observations on this subject," he said, "without adverting to one particular, which I could wish gentlemen to attend to, not so much for our sakes as their own. I would recommend to them no longer to assume a pre-eminence over us in the nationality of their motives; and that they would forbear those frequent assertions, that, if the State debts are not assumed, the Union will be endangered. Sir, I am persuaded, if the gentlemen knew the motives which govern us, they would blush at such intemperate,



as well as inconsistent, language. I am sure, if they knew the emotions with which it is heard, they would at least see the inutility of it. I hope, sir, that whatever may be the decision on this question of assumption, that patriotism and every other noble and generous motive will lead the minority to acquiesce in measures which will tend to establish public credit, by a due provision for the public engagements."

After the speech of Mr. Madison, the House, on motion of Mr. Fitzsimmons of Pennsylvania, rejected in effect the proposition of Mr. Sherman, by discharging the Committee of the Whole from the further consideration of so much of the secretary's report as related to the assumption of the State debts. The resolutions relating to the foreign and domestic debts of the Union were then taken up and agreed to ; and a committee appointed to prepare and bring in a bill in pursuance of those resolutions. The bill was reported on the 6th day of May, and taken up for consideration in Committee of the Whole, on the 19th of that month. When the committee had proceeded, for several successive days, with the bill as far as the twelfth section, Mr. Gerry moved to introduce into it a provision for assuming the State debts, and funding them on the same principles with the domestic debt of the Union.

This attempt to clog a measure of unquestionable and admitted propriety, by connecting with it a proposition which, after long and deliberate consid-

eration, had been already twice rejected, naturally produced a strong feeling of reprobation. A motion was therefore made in the House, that the Committee of the Whole, having gone through all the essential provisions of the bill, should be discharged from the further consideration of the subject. The motion was, however, in a spirit of great liberality and forbearance, afterwards withdrawn; and an opportunity afforded to the persevering champions of assumption again to press their cherished scheme on the wearied attention of the body.<sup>1</sup> At the close of the second day of the discussion, the motion to discharge the committee was renewed and carried, and Mr. Gerry's proposition consequently defeated. Two days were then spent in the House in amending and completing the bill in its original shape, restricted to the foreign and domestic debt of the Union; and in that shape it was, on the 27th of May, ordered to be engrossed, and, on the 2d of June, passed by the House of Representatives.

We have thus traced this memorable question through the various stages of a parliamentary

<sup>1</sup> Mr. Ames of Massachusetts, and Mr. Boudinot of New Jersey, availed themselves of this occasion, after a month's delay, to make very elaborate replies to Mr. Madison's speech of the 22d of April, which was felt by the partisans of assumption to be a stunning blow to their cause. One of its leading advocates, Mr. Sedgwick, without attempting any refutation of the ar-

gument of Mr. Madison, indulged himself in a coarse and intemperate denunciation of it. "This speech," he said, "which he feared was designed to make an unfair and undue impression on the public mind, was a performance, in his opinion, composed of unfounded facts, monstrous premises, and inconclusive deductions."—Lloyd's Debates for 25th May, 1790.

struggle, in one branch of the legislature, unprecedented for the pertinacity and unyielding zeal of its patrons. It was now to enter a new sign of the political zodiac, with an obliquity and in a conjunction which made it exceedingly difficult to calculate its future course. That the hope of final success, by some means or other, had not yet been abandoned, was evinced by the fact, that, on the very day on which the bill providing for the public debt of the Union, disconnected from the State debts, was ordered to be engrossed, resolutions for the assumption of the latter, the same in substance with Mr. Gerry's proposition, were again offered and laid on the table of the House of Representatives. It was under these circumstances that Mr. Madison, on the 1st of June, wrote to Mr. Monroe, "The assumption has been revived, and is still depending. I do not believe it will take place; but the event may possibly be governed by circumstances not at present fully in view. The Funding Bill for the proper debt of the United States is engrossed for the last reading."

It was the critical pending of another question, deeply interesting to many parts of the Confederacy, which gave to the persevering friends of assumption the hope of yet retrieving the fortunes of their long and hitherto unsuccessful struggle. The sessions of Congress, and the residence of the government in so eccentric a position as that of New York, were attended with great and increasing dissatisfaction to many of the States,—especially



Pennsylvania, Delaware, Maryland, Virginia, and the Southern States generally. A proposition had been made, both in the Senate and the House of Representatives, to hold the next session of Congress in Philadelphia. It had been actually carried in the House of Representatives by a considerable majority of votes, and was awaiting the action of the Senate upon it, when the bill providing for the debt proper of the United States was sent up to that body. The naked resolution for holding the next session of Congress in Philadelphia, as it passed the House of Representatives, was eventually rejected in the Senate; but, in lieu of it, the larger and more important question of the permanent seat of government was introduced and discussed. It was carried on hand in hand with the bill providing for the public debt, and with a proposition offered by one of the senators of Connecticut, Mr. Ellsworth, for assuming the State debts.

We do not propose to follow the details and various turns of this complicated game of legislative management and bargaining. Mr. Madison stood aloof from it, and his correspondence affords no clue to its mysteries. The published letters of Mr. Ames, however, contain some statements of a deeply interested actor, which, whatever coloring they may derive from the excited feelings of the writer, cannot be overlooked, forming as they do, in some sort, a part of the transaction itself. In a letter of the 11th of June, 1790, to his friend Mr.

Dwight, he says, with a dramatic display of indignation, —

“ You have seen that we are sold by the Pennsylvanians, and the assumption with it. They seem to have bargained to prevent the latter, on the terms of removing to Philadelphia. It became necessary to defeat this corrupt bargain. We had voted in the House of Representatives for Philadelphia. The Senate disagreed. . . . Rather than gratify the Pennsylvanians and complete their bargain at the same time, we voted [to-day] for Baltimore, which passed by two majority, to the infinite mortification of the Pennsylvanians. . . . But, my dear sir, we gain useless victories. I care not where Congress may sit. I would not find fault with Fort Pitt, if we could assume the debts, and proceed in peace and quietness. . . . It is barely possible for any business to be more perplexed and entangled than this has been. We have fasted, watched, and prayed for the cause. I never knew so much industry and perseverance exerted for any cause. Mr. Sedgwick is a perfect slave to the business. Mr. Goodhue frowns all day long, and swears as much as a good Christian can about the perverseness of Congress.”

To Mr. Minot he writes on the 23d of June, “ A scheme has been ripening, and is agreed upon between the Pennsylvanians and the Southern people, to remove to Philadelphia, stay fifteen years, and fix the permanent seat on the Potomac. To do this, and at the same time reject the assumption, is such

an outrage upon the feelings of the Eastern people, as, I persuade myself, they dare not commit: and as our claim of justice has been expressed in a loud tone, and our reproaches and resentments have been reiterated since it was denied to us, they have become afraid of consequences; and as our zeal has not relaxed, and *every instrument of influence has been tried*, I think I see strong indications of an assent to the assumption. . . . Mr. Morris [then in the Senate from Pennsylvania] is a zealous friend of assumption,<sup>1</sup> though he has acted crookedly; and he has strong motives to prevent the convulsions which would ensue, if a bargain for Philadelphia should be supposed the cause of losing the measure."

On the 27th of June he writes again to his friend Mr. Dwight, and in a tone of yet greater confidence as to the success of this mixed game of terrorism and seduction: —

"Besides, consequences are feared. The New-England States demand it [the assumption] as a

<sup>1</sup> The assertion here made, that Mr. Morris was a zealous friend of the assumption of the State debts, does not appear to be well founded. It is notorious, that both he and his friend Mr. Gouverneur Morris, reputed to be two of the ablest financiers of their day, disapproved decidedly of several features of Colonel Hamilton's plan. See the letter of G. Morris to Robert Morris of the 31st July, 1790, and the answer of the latter of the 31st October, 1790, in Sparks's *Life and Corres-*

*pondence of G. Morris*, vol. III. pp. 11–15, 17, 18. In the letter of 31st October here referred to, Mr. R. Morris says to his correspondent, "We are agreed in sentiment on every point touched in your letter" of 31st July; and, in the letter of 31st July, Mr. G. Morris had expressed strongly his dissent from the policy of assuming, in gross, the State debts. See also his ingenious paper on the "*Finances of America*," written in 1789, *idem*, pp. 469–478.



debt of justice, with a tone so loud and *threatening*, that they fear the convulsions which would probably ensue. Further, they are going to fix the residence permanently on the Potomac, and by the apostacy of Pennsylvania will do it; removing, however, immediately to Philadelphia, and staying there ten years. Two such injuries would be too much. They dare not, I trust, carry Congress so far South, and leave the debts upon us. Robert Morris, too, is really warm for the assumption; and, as he is the *factotum* in the business, he will not fail to insist upon the original friends of it, and who have ever been the majority, voting for it. With five Pennsylvanians, our former aid from that delegation, we can carry it, or at least obtain four-fifths of the debts to be assumed. Accordingly, they begin to say these violent feuds must be composed; too much is hazarded to break up in this temper. Maryland is the most alarmed, as well as — next to Virginia — most anxious for the Potomac. I am beginning to be sanguine in the hope of success."

To these revelations we must not omit to add the testimony of Mr. Jefferson, who has given to the world, in a very solemn form, his account of the same transactions as they fell under his observation at the time.

"This game [speculation in the certificates of the public debt of the Union] was over," he says, "and another was on the carpet at the moment of my arrival; and to this I was most ignorantly and inno-

cently made to hold the candle. This fiscal manœuvre is well known by the name of ‘the assumption.’ . . . It produced the most bitter and angry contests ever known in Congress, before or since the Union of the States. I arrived in the midst of it. But a stranger to the ground; a stranger to the actors on it; so long absent as to have lost all familiarity with the subject, and as yet unaware of the object of it, — I took no concern in it. The great and trying question, however, was lost in the House of Representatives. . . . The Eastern members particularly, — who, with Smith from South Carolina, were the principal gamblers in these scenes, — threatened a secession and dissolution.

“Hamilton was in despair. As I was going to the President’s one day, I met him in the street. He walked me backward and forwards, before the President’s door, for half an hour. He painted pathetically the temper into which the legislature had been wrought; the disgust of those who were called the creditor States; the danger of the *secession* of their members and the *separation of the States*. . . . I told him that I was really a stranger to the whole subject; that, not having yet informed myself of the system of finance adopted, I knew not how far this was a necessary sequence; that, undoubtedly, if its rejection endangered a dissolution of our Union at this incipient stage, I should deem that the most unfortunate of all consequences, to avert which all partial and temporary evils should be yielded.”

The distinguished narrator then describes a meeting which took place, the following day, at his house, between Colonel Hamilton and one or two other parties, at which it was agreed to connect the questions of assumption and the seat of government; that the government should remain for ten years at Philadelphia, and be then permanently transferred to the Potomac; that certain votes, which had hitherto been given against assumption, should be changed, so as to allow that measure to pass; "and Hamilton," then proceeds the narrative of Mr. Jefferson, "undertook to carry the other point. In doing this, the influence he had established over the Eastern members, with the agency of Robert Morris with those of the Middle States, effected his side of the agreement; and so the assumption was passed, and twenty millions of stock divided among favored States, and thrown in as a pabulum to the stock-jobbing herd."

The journals of the two Houses of Congress, as far as their naked entries go, confirm this recital. The bill for the establishment of the permanent and temporary seat of government, in conformity to the programme agreed upon, passed the Senate on the 1st day of July, 1790, by a vote of fourteen to twelve. On the following day, the proposition of Mr. Ellsworth, for an assumption of the State debts, was taken up, and referred to a committee; on whose report, the proposition, on the 14th of July, received the sanction of the Senate by the same majority, though differently



composed, and was afterwards incorporated into the bill providing for the public debt of the Union, which, with this amendment, passed the Senate on the 21st of July, by the unvarying, stereotyped vote of fourteen to twelve. In the House of Representatives, the bill respecting the seat of government passed on the 9th of July by a vote of thirty-two to twenty-nine, precisely as it came from the Senate; and, on the 24th of July, the Senate's amendment to the bill relating to the public debt, and in favor of the assumption of the State debts, was concurred in by the House, by a like vote of thirty-two to twenty-nine; three or four members who had formerly voted against the assumption, having now changed their votes.<sup>1</sup>

Thus at last, and by so close and precarious a vote, was terminated this violent and protracted contest which, for five months, had agitated and convulsed the deliberations of Congress. In it was, undoubtedly, laid the foundation of that new division of parties which, under the distinctive appellations of "Federalist" and "Republican," was destined to become broader and deeper, until the whole nation was ranged under the one banner or

<sup>1</sup> The only members who are generally mentioned as having changed their votes on this occasion are Mr. Richard Bland Lee and Mr. Alexander White of Virginia; of whom the former was not so much opposed to the principle of assumption of the State debts as to connecting it with the bill providing for the proper debt of the

Union. (See his remarks in Lloyd's Debates for 24th of May, 1790.) The Journal of the House of Representatives shows, however, that, besides these gentlemen, two of the members from Maryland who had formerly opposed assumption, Mr. Carroll and Mr. Gale, now voted for the Senate's amendment.

the other. The leading and vital principle of the assumption was, by an enlargement of the national debt, to extend the influence of the national government; to subsidize a powerful monied interest to its support; to establish through that interest a control over the legislative department; and by degrees to impart a tone and energy to the Federal Constitution far beyond the views of its framers, or the expectations and consent of the people by whom it was accepted. This policy, as we have already seen, was shadowed forth in the report of the secretary of the treasury, and more openly avowed by him in his correspondence, and was made no secret of by those most in his confidence.<sup>1</sup>

The final triumph of the measure, by the combinations which the talents, industry, and dexterity

<sup>1</sup> Colonel Hamilton early declared, that the object of what he called "a good administration" should be "to acquire for the Federal government *more consistency than the Constitution* seems to promise for so great a country. It may then triumph altogether over the State governments, and reduce them to an entire subordination, dividing the larger States into smaller districts. The organs of the general government may also acquire additional strength." (See Impressions as to the new Constitution, 1787, in Hamilton's Works, vol. II. p. 421.) This furnishes the clew to all of Colonel Hamilton's administrative policy, as well as to the particular policy of the assumption.

With regard to the latter, an offi-

cer of the treasury department most in the confidence of Colonel Hamilton, and afterwards his successor as head of the department, did not hesitate to avow, in a confidential letter, that the assumption was solely to be justified as a *political engine*. (Oliver Wolcott to his father, in Gibbs's Memoirs, &c., vol. I. p. 43.) If the object of the assumption had been simply justice to the creditor States, that end would have been fully attained, as Mr. Gallatin clearly showed some years afterwards, by assuming \$11,609,259 instead of \$21,789,371, the amount actually assumed; and a purely gratuitous debt of more than ten millions of dollars would have been thus saved to the United States. See Gallatin's "Views" of Finances of U.S., 1800, pp. 20, 21.

of its author organized, installed him at once in the position of a powerful party chieftain. A distinguished historian of the times, and of the same political connection as the secretary, thus speaks of the event and its consequences: "The effect of this measure was great and rapid. The public paper suddenly rose, and was, for a short time, above par. The immense wealth which individuals acquired by this unexpected appreciation could not be viewed with indifference. Those who participated in its advantages regarded the author of a system, to which they were so greatly indebted, with an enthusiasm of attachment to which scarcely any limits were assigned."<sup>1</sup>

In proportion to this enthusiasm for their chief, was the intolerance and bitterness they indulged towards those who had opposed their favorite scheme. Mr. Madison was the special object of their denunciations. They had counted on him as being a well-known friend and supporter of the Constitution; assuming without authority, and in disregard of all moral considerations, that he must needs be in favor of any measure which promised, by whatever means, additional strength to the national authority. He held his course unfaltering, in serene disdain of the violence and injustice of his assailants; leaving it to time and the ultimate enlightened opinion of the world to vindicate the moral consistency of his conduct, as well as the wisdom and sagacity of his statesmanship.

<sup>1</sup> See Marshall's *Life of Washington*, vol. II. p. 191.



## NOTE.

There was one charge afterwards brought against Mr. Madison, in connection with this fruitful party theme, and countenanced by Colonel Hamilton himself (see his letter to Colonel Carrington, in *Hist. Am. Rep.*, quoted post, chap. XLV. of this work), which requires to be noticed. It was alleged that, notwithstanding the solemnity with which the national faith had been pledged by the Funding Act, Mr. Madison held that *a future Congress might with propriety repeal it, on the principle that the legislative authority "had no right to bind posterity."* It so happened that, at the very time the debates were pending in Congress on the report of the secretary, Mr. Madison wrote an elaborate letter to Mr. Jefferson, expressly declaring his dissent from this doctrine.

In the general agitation of men's minds on the fundamental principles of government at the breaking out of the revolution in France, Mr. Jefferson, with his characteristic boldness of speculation, broached the idea, that one generation cannot lawfully bind another. This idea he developed, at considerable length, in a letter addressed to Mr. Madison from Paris, on the 6th of September, 1789, and invited him to bring to its consideration those powers of "cogent logic," which, he added, "are so peculiarly yours." Mr. Madison not having received this letter through the usual channel of communication from France, Mr. Jefferson, after his return to America, sent him a copy of it from Monticello. Notwithstanding the heavy pressure of his congressional duties, Mr. Madison took time to reply to the speculations of Mr. Jefferson, in a letter remarkable, certainly, for the cogency of its profound and unanswerable logic, and not less so for the amiable and gentle courtesy with which he expressed his dissent from the opinions of his senior and distinguished friend.

We give here the greater portion of this letter, not merely in disproof of the unfounded imputations of his political adversaries, but as a striking illustration of that justness and comprehensiveness of view denominated by the great pioneer of intellectual philosophy "a large, sound, round-about sense,"<sup>1</sup>—looking at a subject on every side and in all its bearings,—for which Mr. Madison was so eminently distinguished. The letter affords, moreover, an interesting evidence of the manly and philosophical freedom of opinion which prevailed in the intercourse of the two great republican statesmen, who, united by an equal zeal for the cause of civil and religious liberty, and by the warmest personal attachment, never permitted their cordiality to be disturbed by subordinate differences of opinion, or by any feeling of jealous egotism and self-importance.

"NEW YORK, 4th February, 1790.

DEAR SIR,—Your favor of 9th January, inclosing one of September last, did not get to hand till a few days ago. The idea which the latter evolves is a

<sup>1</sup> Locke's *Conduct of the Understanding*, sect. III.

great one, and suggests many interesting reflections to legislators, particularly when contracting and providing for public debts. Whether it can be received in the extent to which your reasonings carry it, is a question which I ought to turn more in my thoughts than I have yet been able to do, before I should be justified in making up a full opinion upon it. My first thoughts lead me to view the doctrine as not in all respects compatible with the course of human affairs. I will endeavor to sketch the grounds of my scepticism.

"As the earth belongs to the living, not to the dead, a living generation can bind itself only; in every society the will of the majority binds the whole; according to the laws of mortality, a majority of those, ripe for the exercise of their will, do not live beyond the term of nineteen years; to this term, then, is limited the validity of every act of the society; nor can any act be continued beyond this term, without an *express* declaration of the public will." This I understand to be the outline of the argument.

The acts of a political society may be divided into three classes:—

- I. The fundamental constitution of the government.
- II. Laws involving some stipulation which renders them irrevocable at the will of the legislature.
- III. Laws involving no such irrevocable quality.

1. However applicable in theory the doctrine may be to a constitution, it seems liable in practice to some weighty objections.

Would not a government, ceasing of necessity at the end of a given term, unless prolonged by some constitutional act previous to its expiration, be too subject to the casualty and consequences of an interregnum?

Would not a government, so often revived, become too mutable and novel to retain that share of prejudice in its favor which is a salutary aid to the most rational government?

Would not such a periodical revision engender pernicious factions, that might not otherwise come into existence, and agitate the public mind more frequently and more violently than might be expedient?

2. In the second class of acts, involving stipulations, must not exceptions, at least to the doctrine, be admitted?

If the earth be the gift of *nature* to the living, their title can extend to the earth in its *natural* state only. The *improvements* made by the dead form a debt against the living, who take the benefit of them. This debt cannot be otherwise discharged than by a proportional obedience to the will of the authors of the improvements.

But a case less liable to be controverted may, perhaps, be stated. Debts may be incurred with a direct view to the interest of the unborn as well as of the living. Such are debts for repelling a conquest, the evils of which descend through many generations. Debts may, even, be incurred principally for the benefit of posterity. Such, perhaps, is the debt incurred by the United States. In these instances, the debts might not be dischargeable within the term of nineteen years.

There seems, then, to be some foundation in the nature of things—in the relation which one generation bears to another—for the *descent* of obligations from one to another. Equity may require it. Mutual good may be promoted by it. And all that seems indispensable, in stating the account between the dead and the living, is to see that the debits against the latter do not exceed

the advances made by the former. Few of the incumbrances entailed on nations by their predecessors will bear a liquidation, even on this principle.

3. Objections to the doctrine, as applied to the third class of acts, must be merely practical. But, in that view alone, they appear to be material.

Unless such temporary acts should be kept in force by acts regularly anticipating their expiration, all the rights depending on positive laws, that is, most of the rights of property, *would become absolutely defunct*, and the most violent struggles ensue between the parties interested in reviving and those interested in reforming the antecedent state of property. Nor does it seem improbable that such an event might be suffered to take place. The checks and difficulties opposed to the passage of laws, which render the power of repeal inferior to an opportunity to reject as a *security against oppression*, would here render the latter an *insecure provision against anarchy*.

Add to this, that the very possibility of an event so hazardous to the rights of property could not but depreciate its value; that the approach of the crisis would increase the effect; that the frequent return of periods superseding all the obligations depending on antecedent laws and usages must, by weakening the sense of them, co-operate with motives to licentiousness already too powerful; and that the general uncertainty and vicissitudes of such a state of things would, on one side, discourage every useful effort of steady industry pursued under the sanction of existing laws; and, on the other, give an immediate advantage to the more sagacious over the less sagacious part of the society.

I can find no relief from such embarrassments but in the received doctrine, that a *tacit* assent may be given to established governments and laws, and that this assent is to be inferred from the omission of an express revocation. It seems more practicable to remedy, by well-constituted governments, the pestilent operation of this doctrine in the unlimited sense in which it is at present received, than it is to find a remedy for the evils necessarily springing from an unlimited admission of the contrary doctrine.

Is it not doubtful whether it be possible to exclude wholly the idea of an *implied or tacit assent*, without subverting the very foundation of civil society?

On what principle is it that the voice of the majority binds the minority? A greater proportion might be required by the fundamental constitution of society, if, under any particular circumstances, it were judged eligible. Prior, therefore, to the establishment of this principle, *unanimity* was necessary; and rigid theory, accordingly, presupposes the assent of every individual to the rule which subjects the minority to the will of the majority. If this assent cannot be given *tacitly*, or be not implied where no positive evidence forbids, no person born in society could, on attaining ripe age, be bound by any acts of the majority; and either a unanimous renewal of every law would be necessary, as often as a new member should be admitted to the society, or the express consent of every new member be obtained to the rule by which the majority decides for the whole."

The enlightened reader cannot fail to be struck with the remarkable manner in which these reasonings of Mr. Madison, on the nature and origin of the rule by which the will of a majority is made to stand for that of the whole society, anticipated the philosophical speculations of Burke, a year later, on the same intricate question.

"The power of acting by a majority," says the philosophical statesman



of England, "which the gentlemen theorists seem to assume so readily, after they have violated the *contract* out of which it has arisen, must be grounded on two assumptions : first, that of an incorporation produced by *unanimity* ; and, secondly, a *unanimous agreement* that the act of a mere majority (say of one) shall pass with them and with others as the act of the whole. We are so little affected by things which are habitual, that we consider this idea of the decision of a *majority* as if it were a law of our original nature. But such *constructive whole*, residing in a *part only*, is one of the most violent fictions of positive law that ever has been or can be made on the principle of artificial incorporation. . . . This mode of decision, where wills may be so nearly equal ; where, according to circumstances, the smaller number may be the stronger force ; and where apparent reason may be all on one side, and on the other little else than impetuous appetite, — all this must be the result of a very particular and special *convention*, confirmed afterwards by long habits of obedience, by a sort of discipline in society, and by a strong hand, vested with stationary, permanent power to enforce this sort of *constructive* general will. What *organ* it is that shall declare the corporate mind is so much a matter of positive arrangement, that several states, for the validity of several of their acts, have required a proportion of voices much greater than that of a mere majority." — Appeal from the New to the Old Whigs, 1791, Burke's Works, vol. VI. pp. 211, 212.

## CHAPTER XLI.

Continuation of Session of Congress — Bill for Periodical Enumeration of Inhabitants — Mr. Madison suggests the Importance of making it the Occasion of obtaining, from Time to Time, various Statistical Information, throwing Light on the Industrial Progress and Interests of the Nation — Bill for establishing Uniform Rule of Naturalization — Views of Mr. Madison with Regard to the Cautions to be observed in the Encouragement of Foreign Immigration — Petition of Society of Quakers respecting Abolition of Slavery and Slave Trade — Excitement produced among Representatives of some of the Southern States — More sober Views of Mr. Madison and of Delegation of Virginia prevail — Resolutions adopted by Congress — Question of counteracting Commercial Regulations of Great Britain again brought up by Petition from New Hampshire — Mr. Madison again proposes Special Discriminating Duties on Navigation of Countries not having Commercial Treaties with the United States — Warmly opposed by Messrs. Ames and Sedgwick of Massachusetts, Mr. Lawrance of New York, and Mr. Smith of South Carolina — Triumphant Reply of Mr. Madison — His Proposition, favorably received at first, defeated by Combination of Interests connected with British Trade — He next proposes, in Distinct Resolutions, a Specific Retaliation of the Unfriendly Restrictions of Foreign Powers, by returning, in Each Case, Like for Like — These Resolutions, by the same Adverse Influence, postponed, without being acted on — Resolutions in Honor of Dr. Franklin offered by him — Anecdotes of his Intercourse with Dr. Franklin — Congress adjourns — Dissatisfaction, especially in the Southern States, with its Financial Measures, proposed by Secretary of the Treasury — The Existence of this Dissatisfaction communicated to Washington — His Answer — A Distinguished Correspondent of Mr. Madison, and Original Friend of the Constitution, expresses his Dissatisfaction, even to hinting a Sep-

aration of the States — Mr. Madison counsels Moderation, and a Steady Pursuit of Constitutional Remedies — Republican Statesmen discountenance every Suggestion of Disunion — Remarkable Letter of Mr. Jefferson — Firm Remonstrance of Legislature of Virginia against Assumption of State Debts — Colonel Hamilton's Inconsistent Denunciation of the Interference of a State Legislature.

BESIDES the important questions presented by the report of the secretary of the treasury for the support of public credit, which furnished the principal subject of the deliberations of Congress during its present session, other questions of much interest from time to time engaged its attention. Among these, one of the earliest that came before it, under the express injunction of the Constitution, was a legislative provision for a periodical enumeration of the inhabitants of the country, as the basis of Federal representation and direct taxes. A committee of one member for each State was appointed to prepare and bring in a bill for the purpose.

The bill reported had in view only the collective population of the several States, without reference to the different classes into which it was distributed. It at once occurred to the mind of Mr. Madison, trained to habits of enlarged inquiry, that an analytical and classified enumeration, presenting a view of the component parts of the population, as distinguished by their respective industrial pursuits, would furnish data of the highest interest to the legislator and statesman. He, therefore, moved to engraft upon the bill a provision of that nature.



The proposition was in advance of the political education of the times. No provision of the sort had yet been introduced in Europe or America. It preceded by twenty years a similar provision carried into effect by the English Parliament in 1810,<sup>1</sup> and afterwards copied and amplified in the United States. The original suggestion belongs to Mr. Madison, and deserves to be recorded as a proof of his enlightened and comprehensive statesmanship. The proposition was introduced with these remarks:—

“Mr. Madison observed that they had now an opportunity of obtaining the most useful information for those who should hereafter be called upon to legislate for their country, if this bill was extended so as to embrace some other objects besides the bare enumeration of inhabitants. It would enable them to adapt the public measures to the particular circumstances of the community. In order to know the various interests of the United States, it was necessary that the description of the several classes into which the community was divided should be accurately known.

“This kind of information, he observed, all legislatures had wished for; but it had never yet been obtained in any country. He wished, therefore, to avail himself of the present opportunity of accomplishing so valuable a purpose. If the plan was pursued in taking every future census, it would give them the means of marking the progress of

<sup>1</sup> See Porter's *Progress of the Nation*, vol. I. pp. 60, 61.

the society, and distinguishing the growth of every interest. This would furnish ground for many useful calculations, and at the same time answer the purpose of a check on the officers employed to make the enumeration; forasmuch, as the aggregate number was divided into parts, any imposition might be discovered with proportionable ease. If these ideas met the approbation of the House, he hoped they would pass over the schedule in the second clause of the bill, and he would endeavor to prepare something to accomplish this object."

That part of the bill was accordingly passed over; and, on the following day, Mr. Madison prepared an enlarged schedule, according to the ideas he had suggested, which was agreed to by the House, and incorporated into the bill. But, in the mutations which the bill subsequently underwent between the Senate and the House, the provision engrafted upon it was lost, — destined, however, to re-appear and take its place in the statute-book nearly half a century afterwards. Thus early did Mr. Madison lead the way in pointing out the importance of those statistical returns, which have since proved an indispensable guide to the labors of the legislator, as well as to the speculations of the political philosopher.

Another subject, which early attracted the attention of this Congress, was the establishment under the Constitution of a uniform rule for the naturalization of foreigners. On the discussion of the bill introduced for that purpose, it soon became

apparent that the policy of promoting a rapid settlement of the extensive, vacant territory of the United States, by immigration from abroad, exercised a very unfortunate influence on the views of many of the members, in favor of too easy an admission of foreigners to the rights of citizenship.<sup>1</sup> Mr. Madison sought to countervail this tendency, by calling the attention of the House to considerations of a higher nature than those connected with filling up the country by an accession of mere brute numbers.

“When we are considering,” he said, “the advantages that may result from an easy mode of naturalization, we ought also to consider the cautions necessary to guard against abuses. It is no doubt very desirable that we should hold out as many inducements as possible for the *worthy part of mankind* to come and settle amongst us, and throw in their fortunes into a common lot with ours. But why is this desirable? Not merely to swell the catalogue of people. No, sir: ’tis to increase the wealth and strength of the community; and those who acquire the rights of citizenship, without adding to the wealth or strength of the community, are not the people we are in want of. . . . I should be exceedingly sorry, sir, that our

<sup>1</sup> See Lloyd’s Debates for 3d and 4th of February, 1790. Concurring with the policy here mentioned, was the more generous but visionary idea of making America, with her free institutions and wide

domain, an asylum for the oppressed and persecuted of all nations. See remarks of Mr. Page of Virginia, in the debate of 3d February, 1790.



rule of naturalization excluded a single person of *good fame*, who really meant to incorporate himself into our society. On the other hand, I do not wish that any man should acquire the privilege, but one who is a *real* addition to the wealth or strength of the United States."

This appeal had no other effect at the moment than to obtain an extension of the period of residence required for naturalization from one year to two, and to superadd the condition, that the applicant should be shown to be a person of "*good character*." Reflection and experience soon brought the conviction, that the rights of American citizenship were too valuable in themselves, and too potential for good or evil, to be acquired at so cheap a rate; and, a few years afterwards, a law, in the preparation of which Mr. Madison, as we shall see, had a leading agency, was passed, requiring a probationary residence of five years instead of two; and that it should appear to the satisfaction of the court, that the applicant had not only behaved as a man of good *moral* character, but is "attached to the Constitution of the United States, and well disposed to the good order and happiness of the same," — a provision which, in practice, unfortunately has been too often treated as a hollow formality, and not as a vital and substantive condition, as it was intended by the framers of the law to be.<sup>1</sup>

<sup>1</sup> See the act of January, 1795, second session of the third Congress, and the debates upon it as reported in the Annals of Congress for the

As soon as these questions were disposed of, another of a very delicate character occurred, which gave rise to a very excited and painful discussion. On the 11th of February, a petition was presented from the Society of Quakers, praying Congress "to exert their upright endeavors, to the full extent of their powers, for the abolition of the African slave-trade;" and, on the next day, it was followed by one from an association of individuals in Pennsylvania, formed several years before, for promoting the abolition of slavery, and now asking Congress "to devise means, and step to the very verge of their powers, for removing this inconsistency from the character of the American people." The first object was expressly placed, for the time being, beyond the reach of Congress, by the provision in the Constitution, declaring that "the importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by Congress prior to the year 1808;" and the latter was as clearly not within the legitimate scope of any of the powers delegated by the Constitution to the national authority.

The delegates of the two southernmost States, Georgia and South Carolina, and one of the delegates of Maryland, Mr. Stone, met these petitions, on their presentation, with indignant denunciations, and warmly resisted the motion made for their reference to a committee. A large majority of the delegation of Virginia took a calmer and more temperate view of the subject, and contended,

that, as the question was now of the first impression, good would be done by referring it to a committee, and obtaining a report from them on the limitation of the powers of Congress with reference to the subject-matter of the petitions. This was particularly the view of Mr. Madison. He said, "The debate has taken a serious turn, and it will be owing to this alone if an alarm is excited; for, had the memorial been treated in the usual way, it would have been considered a matter of course, and a report might have been made so as to give general satisfaction. If there was the slightest tendency by the commitment to break in upon the Constitution, he would object to it; but he did not see on what ground such an event was to be apprehended."<sup>1</sup>

These sentiments prevailed; and the petitions were referred by a vote of forty-three to eleven. The committee made their report on the 8th of March, declaring that the general government is expressly restrained from prohibiting the African slave-trade, in any of the States where it is allowed, prior to 1808; that it is equally restrained, by a fair construction of the Constitution, from interfering in the emancipation of slaves, or in any of the internal regulations of the States relating to slavery; and that it can, for the present, exercise no power with regard to the African slave-trade, but to impose a duty on the importation of slaves, not exceeding ten dollars for each person, provide

<sup>1</sup> See Lloyd's Debates, vol. III. p. 337.



for their humane treatment on the passage, and interdict American citizens from engaging in the foreign slave-trade.

The report of the committee was taken up for consideration in a Committee of the Whole House on the 16th of March, and was the subject of a heated and discordant debate for six days. Although the principles of the report were such as the slave-holding States could not object to, but, on the contrary, were in conformity to that construction of the Constitution for which those States contended, the delegations of the extreme Southern States continued warmly to resist any action upon the subject; and, meeting with support from persons of very different views among the Representatives of some of the other States, it was with great difficulty that any solution of this *vexed question* was arrived at. The Committee of the Whole, without making any change in the *principles* of the special report, condensed them into a briefer and simpler expression, and reported them, in that modified form, to the House. Finally, on the motion of Mr. Madison,<sup>1</sup>

<sup>1</sup> That this motion was made by Mr. Madison appears from the correspondence of Fisher Ames, who was opposed both to the resolutions of the committee and to Mr. Madison's motion to enter them on the journal; because, he said, Congress would be thereby "pledged to dogmas which may hereafter be denied."—Life and Works of Ames, vol. i. p. 76. In a letter from Mr. Madison to Edmund Randolph,

dated the 21st of March, 1790,—two days before the motion referred to,—he freely expressed his condemnation of the intemperance of the debate on the part of extreme Southern members, which he thought as ill-judged in policy as deficient in dignity and good taste. "The true policy of the Southern members," he said, "was to let the affair proceed with as little noise as possible, and to have made use of

both reports were entered at large on the journal of the House, to remain there, a solemn and perpetual testimony of the adhesion of the Representatives of the nation to those principles of constitutional good faith which could alone secure the peace and stability of the Union. They had the happy effect of closing a fruitful source of discord for near thirty years, when, by an evil destiny, the spirit of fanatical agitation, directed by political ambition, found means to elude the settlement of 1790, and again opened this fountain of bitter waters.

Near the close of the session, the illiberal and unjust commercial policy of England towards the United States again came under the consideration of Congress. A petition was presented from the merchants and inhabitants of Portsmouth, N.H., praying Congress to adopt measures to prevent foreigners from carrying the productions of the United States to any port or place where our citizens were not allowed to enter with their vessels engaged in the same trade. The petition had specially in view the regulations of the British government excluding American vessels from the trade with the British West Indies and the other colonial dependencies of that power. It was referred to a committee, which reported a resolution for raising the tonnage duty on foreign vessels *generally* from fifty to one hundred cents per ton.

the occasion to obtain, along with  
an assertion of the powers of Con-

gress, a recognition of the restraints  
imposed by the Constitution."

Mr. Madison thought this indiscriminate increase of duty on the vessels of all foreign nations, without regard to their different systems of commercial policy towards us, both unjust and unwise ; as confounding in the same treatment friendly with unfriendly powers, and provoking all alike to make common cause in resentment of our regulations.<sup>1</sup> He pointed out particularly the advantageous footing on which France had placed our trade with her in the leading articles of whale-oil, rice, tobacco, grain and flour, salted provisions, and ships built in the United States, as well as in the direct intercourse with her West-India colonies ; and expressed the opinion, that, if this trade were encouraged by a proper spirit of reciprocity on our part, it would probably become “ of three times greater benefit to the United States than that of any other commercial country whatever.” He proposed, therefore, instead of a general and indiscriminate increase of the duty on all foreign vessels, to make the increase apply only to the vessels of “ powers not in commercial treaty with the United States ;” doubling the duty on such vessels at first, increasing it still further after a certain fixed period, and

<sup>1</sup> It soon happened, accordingly, that France protested with great energy against the application to her of the discriminating tonnage duty previously laid on foreign vessels, as not corresponding to the liberal commercial policy she had pursued towards the United States ; and subsequently she withdrew

several important privileges, formerly granted to American trade and navigation in her ports. — See letters of Monsieur Otto to Mr. Jefferson, of December, 1790, and January, 1791 ; Mr. Jefferson’s report to the President on the subject, and also his report in 1793 to Congress.



finally, after a yet later period, withdrawing from them altogether the privilege of “exporting from the United States any unmanufactured article, the growth and produce of the United States.”

The proposition was warmly opposed by Mr. Ames and Mr. Sedgwick of Massachusetts, Mr. Lawrance of New York, and Mr. Smith of South Carolina, on the ground, mainly, that it would lead to retaliatory measures by Great Britain, involving the probable suspension of all trade between the two countries. To show how visionary this apprehension was, Mr. Madison entered into a particular analysis of the commerce of Great Britain with the United States, exhibiting the annual amount of her exports and imports to and from the United States, the number of her vessels and seamen employed in the navigation between the two countries, and the vital dependence of her West-India Islands on American custom and supplies. He then asked,—

“Is it conceivable that Great Britain would give up all these advantages, rather than put the commerce of the two countries on such a footing as would be reasonable and reciprocal? That she would throw away, and into her rival’s hands, too, a freight of near half a million sterling? That she could bear to see between five and six hundred vessels rotting in port, or sold to others to be employed in a business sacrificed by her? What would become of seven or eight thousand seamen thus turned out of employment? And would they not enter into the service of other nations, and par-

ticularly of the United States, to be employed in the exportation of our produce?

“He took notice of the immense loss that would be sustained by the British merchants on the capital employed in the American trade, particularly that of rice and tobacco,—the former amounting to one hundred thousand barrels annually, the latter to near the same number of hogsheads. . . . The manufacturers, he said, would be still more distressed by the want of the American market. Many articles which were luxuries to this country, and which it would be better without, gave bread to that class of people. . . . He said that Great Britain would be the more unwilling to risk an interruption of her trade to the United States, because it would hasten the establishment of American manufactures, which she had always endeavored to prevent, and thereby cut off for ever this important market for her.

“As to the British West Indies, it had been fully shown that they could neither prosper nor subsist without the market of the United States. They were fed from our granaries. Without our lumber, which it was admitted could be supplied nowhere else, they could not carry on their trade, or support their establishments. In the sale of their rum, on which the profits of their labor essentially depended, they had no resource but in the consumption of this country. . . . In the case of war, which happened every ten or twelve years, or a season of famine, which happened every three or

four, he said the condition of the British Islands must evidently be such, that their government could not fail to provide against the contingency by proper concessions, unless they should infer from our conduct that such concessions are unnecessary.”<sup>1</sup>

So great was the impression made by these powerful statements of Mr. Madison, that the House, in spite of the strong phalanx arrayed against him, adopted the resolution proposed by him, by a majority of thirty-two to nineteen ; and appointed a committee, of which he was chairman, to prepare and bring in a bill pursuant to the resolution. The bill was reported by him three days afterwards, — the 17th of May ; and, on the 19th of that month, he wrote to a friend in Virginia,<sup>2</sup> expressing sanguine anticipations of its passage by both branches of Congress. “In consequence,” he said, “of a petition from New Hampshire, the subject of our commercial relation to England has been revived. A majority of the House of Representatives seem disposed to make a pretty bold experiment ; and I think it will meet with a very different reception in the Senate from the measure tried at the last session.”

The bill, however, was not taken up for consideration until several weeks later, — the 25th and the 29th of June ; and, in the mean time, all the interests and sympathies favorable to British monopoly, and of which New York was the centre,

<sup>1</sup> See Lloyd's Debates for 13th and 14th February, 1790.

<sup>2</sup> Mr. Edmund Randolph, not

yet established in New York, to enter regularly on the duties of his office as Attorney-General.



were industriously brought to bear upon the deliberations of Congress. The leading principle of the measure — a just discrimination between nations in commercial alliance with the United States, and those who had refused to enter into any commercial arrangement with them — was finally rejected. Mr. Madison was not discouraged by this unexpected result from still pursuing, though in a somewhat varied form, an object which he felt to be vitally connected with the dignity and equal rights, as well as interests, of the nation. On the following day, he again brought the subject to the notice of the House, and proposed to apply the principle of reciprocity, in its simplest and most obvious form, to the existing state of the commercial relations with Great Britain.

According to the contemporary report of the proceedings and debates of Congress, “he adduced several particulars to show that this reciprocity does not exist in our trade and intercourse with Great Britain. While our shipping is excluded from many of her ports, and admitted into others under such restrictions as are nearly tantamount to a prohibition, their shipping is freely admitted into all the ports, harbors, and bays of the United States.”

He therefore submitted two resolutions, declaring, first, that where the vessels of the United States are excluded from a direct trade with any port or place under the jurisdiction of a foreign power, the vessels of such foreign power shall be

prohibited in like manner from carrying on that trade with the United States; and, secondly, that where the vessels of the United States are not allowed to carry to a foreign country any articles except those which are the growth, produce, or manufacture of the United States, the vessels of such foreign country shall not be allowed to bring into the United States any articles not the growth, produce, or manufacture of that country. Notwithstanding the self-evident justice of these resolutions, such was the nervous apprehension of provoking the resentment of Great Britain,—the relic of colonial subordination,—and so subdued by it was Congress,—under the active inculcation of the secretary of the treasury, whose influence was now in the ascendant,—that they shrank from acting upon the proposition; and the subject was *postponed*, and not again taken up during the session.

Among the duties which devolved upon Mr. Madison, during this session of Congress, was that of announcing to the House the death of Franklin, who closed his long and illustrious career of usefulness and honor, at the age of eighty-four years and three months, in the city of Philadelphia, on the 17th day of April, 1790. To no member did this privileged duty so properly belong as to Mr. Madison, as well on account of his eminent standing among his colleagues, as of the intimate relations which, for the last four years, had subsisted between him and the departed philosopher and sage. On the 22d of April, he offered the following resolution,

which was unanimously adopted, and entered upon the journal of the House : —

“The House, being informed of the decease of Benjamin Franklin, a citizen whose native genius was not more an ornament to human nature than the various exertions of it were precious to science, to freedom, and to his country, do resolve, as a mark of veneration due to his memory, to wear the customary badge of mourning for one month.”

On no tomb were nobler tributes ever laid by a zealous rivalry of veneration and affection, than on that of Franklin. Mirabeau in the National Assembly of France, Condorcet in the French Academy of Sciences, La Rochefoucauld before “The Society of 1789” (afterward the Feuillants), united their eloquent voices with those of his native land, to celebrate the genius, the wisdom, the virtues, the beneficence of the great American, who was alike the friend of humanity and of his country.<sup>1</sup>

On the 12th day of August, 1790, Congress adjourned, to meet in Philadelphia on the first Monday in December following. Its proceedings during

<sup>1</sup> Among some detached memoranda of Mr. Madison is found the following account of his acquaintance and intercourse with Dr. Franklin : —

“I did not become acquainted with Dr. Franklin till after his return from France, and election to the chief magistracy of Pennsylvania. During the session of the grand convention, of which he was a member, and as long after as he lived, I had opportunities of enjoy-

ing much of his conversation, which was always a feast to me. I never passed half an hour in his company without hearing some observation or anecdote worth remembering. Among those which I have often repeated, and can be sure, therefore, that my memory accurately retains, are the following.”

Mr. Madison then recounts half a dozen instances, or more, of Dr. Franklin’s rare and felicitous power



the session just closed — especially the measures which had grown out of the recommendations of the secretary of the treasury — had profoundly agitated the public mind, and gave rise to a deep feeling of discouragement and dissatisfaction in many

of illustrating, and fixing in the minds of his hearers, by familiar incidents or parables, some of the most profound truths of moral and political science. Of these we can find room for only two, which are the first related by him, and which we give in the words of the narrator: —

“Previous to the convention, and whilst the States were seeking by their respective regulations to enlarge as much as possible their shares of the general commerce, the Doctor, alluding to their jealousies and competitions, remarked that it would be best for all of them to let the trade be free; in which case the trade would level itself, and leave to each its proper share. These contests, he said, put him in mind of what had once passed between a little boy and little girl, eating milk and bread out of the same bowl. ‘Brother,’ cried the little girl, ‘eat on your own side: you get more than your share.’

“In the convention, the difference of opinion was often very great; and it occasionally happened that the votes of the States were equally divided, and the questions undecided. On a particular day, when several subjects of great importance were successively discussed, and great diversity of opinions expressed, it happened

that on each of them this was the case; so that nothing was done during the whole day, and appearances were not a little discouraging as to a successful issue of the undertaking.

“After the adjournment, the Doctor observed to several of us who were near him, in allusion to the poor sample which had been given of human reason, that there was on board a ship, in which he once crossed the Atlantic, a man who had from his birth been without the sense of smelling. On sitting down to dinner one day, one of the mess cut off a piece of beef, and putting it to his nose, cried out, ‘This beef stinks.’ The one next to him, cutting off and smelling a piece, said, ‘Not at all: it is as sweet as any meat I ever smelled.’ A third, passing a piece across his nose several times, — ‘Stinks,’ says he: ‘no; I believe not: yes; I believe it does,’ — repeating the opposite opinions as often as he made the trial. The same doubts and contrarieties went round, as the company, one after another, expressed their opinions. ‘Now, gentlemen,’ exclaimed the man without the sense of smelling, ‘I am convinced of what I have long suspected, that what you call smelling has no existence, and that it is nothing but mere fancy and prejudice.’”

parts of the Confederacy, — in the Southern States particularly. The files of both General Washington's and Mr. Madison's correspondence afford abundant testimony to the wide-spread prevalence of this feeling. A correspondent of the former says, "It is represented that the Northern phalanx is so firmly united as to bear down all opposition; while Virginia is unsupported, even by those whose interests are similar to hers. Many who were warm supporters of the government are said to be changing their sentiments, from a conviction of the impracticability of union with States whose interests are so dissimilar to those of Virginia."

Two or three weeks later, the same correspondent writes: "The late transactions of Congress have soured the public mind to a great degree; which was just recovering from the fever which the slave business had occasioned, when the late much-agitated question of the State debts came on. . . . As to the assumption of the State debts, I think I should not be wrong in saying, that there is as near a unanimity of opinion for opposition as, perhaps, could be expected on any subject. There is in general, I think, in consequence of these two instances, a strong apprehension felt, that the predictions relative to the grasping at power by unwarrantable constructions of the Constitution, will be verified."<sup>1</sup>

<sup>1</sup> The two extracts here cited are from letters of Dr. David Stuart, a near neighbor and confiden-

tial friend of General Washington; which see in Sparks's Washington, vol. x. pp. 82, 94, 95.

The answer of General Washington to the communications of his friend was marked by that masculine common sense, and that collected wisdom, which guided all his reflections on public affairs.

“I am sorry,” he said, “that such jealousies as you speak of should be gaining ground, and are poisoning the minds of the Southern people. But admit the fact which is alleged as the cause of them, and give it full scope,—does it amount to more than was known to every man of information before, at, and since the adoption of the Constitution? Was it not always believed that there are some points which peculiarly interest the Eastern States? And did any one who reads human nature, and more especially the character of the Eastern people, conceive that they would not pursue them steadily by a combination of their force? Are there not other points which equally concern the Southern States? If these States are less tenacious of their interest; or if, whilst the Eastern States move in a solid phalanx to effect their views, the Southern are always divided,—which of the two is most to be blamed?

“That there is a diversity of interest in the Union, none has denied. That this is the case also in every State, is equally certain; and that it even extends to the counties of individual States, can be as easily proved. . . . These are well-known truths; and yet it did not follow that separation was to result from the disagreement. . . . Common



danger brought the States into Confederacy, and on their union our safety and importance depend. A spirit of accommodation was the basis of the present Constitution. . . . And I will ask another question, of the highest magnitude in my mind, to wit, if the Eastern and Northern States are dangerous in *union*, will they be less so in *separation*? If self-interest is their governing principle, will it forsake them, or be restrained by such an event? I hardly think it would.”<sup>1</sup>

The communications made to Mr. Madison, as to the state of public sentiment in Virginia, were from a gentleman who had filled various important public trusts in that State, who had been a zealous advocate in her convention of the adoption of the Federal Constitution, and who was soon to become her chief magistrate by the voice of the representatives of the people.<sup>2</sup> He was also a devoted friend of the President, and a former companion in arms and intimate personal friend of the secretary of the treasury. In a long letter to Mr. Madison, of the 4th of March, 1790, he enters into an elaborate review of the funding system of Colonel Hamilton, which he considered irreconcilable with wisdom, justice, and the principles of a sound republican policy; and deduces, from the countenance it had met with in Congress, the most unfavorable

<sup>1</sup> See Sparks's Washington, vol. x. pp. 83, 84.

<sup>2</sup> Colonel Henry Lee. He was elected governor of Virginia at the

legislative session in the autumn of 1791, and continued to fill that office during the years 1792, 1793, and 1794.

auguries to the peace and liberties of the Union. He concludes with this emphatic expression: "It seems to me that you must introduce real [direct] taxation, and bring the seat of government near the centre of territory, or the Southern States must be slaves in effect, or else cut the Gordian knot at once."

In a letter of the 13th of the same month, to Mr. Madison, he says, "Your motion, which underwent so much discussion, and met with such a decided negative, is pleasing to the landed interest in this country, and very much disrelished by the town interest. . . . It will, I suppose, undergo the same fate in Congress as all other questions will, which, in any degree, oppose the opinions and wishes of the Northern people." And, in another letter of the 3d of April, he says, "On the score of propriety and repose, I had determined to suppress my anxious attention to the prosperity of the national government; for I really know not what conduct I may feel myself bound to observe, in consequence of the mad policy which seems to direct the doings of Congress.

"To disunite is dreadful to my mind; but, dreadful as it is, I consider it a lesser evil than union on the present conditions. . . . Change of the seat of government to the territorial centre, direct taxation, and the abolition of gambling systems of finance, might and would effect a material change. But these suggestions are vain and idle. No policy will be adopted by Congress, which does not more

or less tend to depress the South and exalt the North." <sup>1</sup>

Mr. Madison, in replying to his correspondent, while concurring in the strong sentence of condemnation passed on certain measures of Federal policy, tells him calmly, "I yet cannot feel all the despond-

<sup>1</sup> Colonel Lee's dissatisfaction with the leading measures of the government continued unabated for several years after the period referred to in the text. We subjoin a few additional extracts of his correspondence with Mr. Madison at successive intervals, as throwing important light on the early history of parties subsequent to the adoption of the Constitution. In a letter of the 24th of August, 1791, a few months after the Bank of the United States had been chartered by Congress, he gives the following graphic account of his observations, during a journey from Philadelphia to Virginia, of the pernicious and re-awakened spirit of stock-jobbing stimulated by that event:—

"My whole route presented to me one combined scene of stock-gambling. . . . Thousands, even at this late hour, are entering into a line of life which they abhor, in order to participate in legal spoil, and preserve in some degree their relative rank and station with their neighbors. What is astonishing in the business is, that all orders of people seem to reckon this appreciation of the public paper a positive proof of wisdom and integrity in government, and bestow with a lavish hand their plaudits on those to whose sagacity and conduct they

consider these beneficent effects attributable."

On the 8th of January, 1792, soon after his election to the chief magistracy of Virginia, he says, "Indelibly stained is the wisdom, honor, and justice of the government by those fashionable treasury schemes, imitative of the base principles and wicked measures adopted through necessity in corrupt monarchies, and long since reprobated (though continued) by the wise and good of the countries where they exist. We, who ought to have acted from ourselves, and pursued an original course, founded on the principle and pointed to the end of making the people happy, have belittled ourselves by engrafting on our vigorous stock the shoots of decaying, blighted fruit. . . . I thank you for the report on manufactures. I had perused it in part from the newspapers, and found it, like every other production from the same pen, plain and feasible, and going to one point, to wit, riveting on these States, faster and faster, the principles and measures heretofore adopted, and to me execrable."

On the 29th of the same month, he thus gives expression to his political feelings: "I admire the Constitution, and revere the princi-



ency which you seem to give way to.”<sup>1</sup> Like Washington, he had too vivid a recollection of the anarchy, disorders, and fatal defects of the late confederation, to be willing to give up at once a system which, with so much care and labor and anxiety, had been substituted for it, because, owing to temporary and unpropitious causes, not inherent in but alien to the true genius of the system, some things had been done, in the outset of the government, contrary to the sense of justice and honest convictions of a large portion of its friends. These were evils which it was the peculiar prerogative and happiness of republican institutions to correct, by peaceful and constitutional resorts provided within the framework of the system.

Nor did he despair of such peaceful correction. Whatever had been the compacted and systematic union of the Eastern and Northern States, in pursuing some of the recent measures most loudly and

ples on which it is founded, and love affectionately the objects which it contemplated. All that grieves me is the perverseness of its administration. The effects heretofore produced are spurious, but have been so successful as to render, in my judgment, a change of Constitution in *operation* certain, although there will be no change, for a long time, in *name*.”

In a letter of the 4th of April, 1792, he makes these significant remarks: “In the various doings of Congress, it plainly appears that very little regard is paid to the

minds of their constituents. In every transaction, something occurs which excites suspicion of an undue influence or a latent design, inimical to the intention and true spirit of the Constitution. . . . The fiscal arrangements I consider as the bottom of all the evils experienced, and to be experienced; and I cannot cease to lament the fatal project introduced and carried by my friend Hamilton, of whose head and heart I entertain the highest sentiments of respect.”

<sup>1</sup> Letter of 13th April, 1790.

justly complained of, that union would have been unavailing to carry those measures, but for the co-operation of one of the leading Southern States, — South Carolina. Mr. Madison, in profoundly meditating, as he had done, the securities for Southern rights and interests under the Constitution, held that, as long as the South was united in itself, it would find in the interests and opinions of the Middle States, and especially of the new States of the West, if their sympathies and alliance were wisely cultivated, a sufficient counterbalance, in general, to the monopolizing and aggressive tendencies of the Eastern States, even when sustained by New York.<sup>1</sup> With these prospects of the ultimate correction of the deviations that had taken place from the true spirit of the Constitution, and while that Constitution, by its own silent and inherent energies, in spite of errors of administration, was yielding fruits of the highest value in the regenerated credit, industry, and prosperity of the country, it seemed to him a rash and blind statesmanship that would thus early and lightly embark again on the sea of revolution.

He conceived it, on the contrary, to be the part of patriotism and duty to remain firmly at his post ; to continue to resist, with earnestness and decision, the anti-republican measures which his feelings and judgment equally condemned ; never to weary in efforts to vindicate the integrity and purity of the Constitution, by the means which the Constitution itself supplied ; and not to doubt of the final success

<sup>1</sup> See ante, chap. xxx. p. 393, and note, p. 399.

of those efforts, however that success might, for a season, be postponed. The thorough change of measures, which, after a constitutional struggle of ten years, was called for and enforced by the voice of the nation, justified both his patriotism and his foresight. And his unfaltering perseverance in the line of action which a sober and conscientious sense of duty prescribed to him, while others, who embraced more intemperate counsels at first, fainted by the way, added one more confirmation to the truth, that no resolutions are so likely to be maintained with firmness, as those which are adopted with calmness and moderation.<sup>1</sup>

<sup>1</sup> The great republican statesmen of America ever deprecated a dissolution of the Union, as a direful alternative to be thought of only in the last and most hopeless extremity. It was, on the other hand, as we have seen and shall continue to see in the course of this narrative, the frequent menace and oft-inculcated creed of their political adversaries, especially in the New-England States. Even in 1798, when the hostile and dangerous projects of the anti-republican party, headed by a New-England President and backed by the whole power of the Eastern and Northern States, were most threatening, Mr. Jefferson, then the standard-bearer of the Republican party, most earnestly discountenanced the suggestion of separation.

"In every free deliberating society," he said, "there must be, from the nature of man, opposite parties, and violent dissensions and

discords; and one of these, for the most part, must prevail over the other, for a longer or shorter time. Perhaps this party division is necessary to induce each to watch and delate to the people the proceedings of the other. But if, on a temporary superiority of the one party, the other is to resort to a scission of the Union, no federal government can ever exist. If, to rid ourselves of the present rule of Massachusetts and Connecticut, we break the Union, will the evil stop there? . . .

"Seeing, therefore, that an association of men who will not quarrel with each other is a thing which never yet existed, from the greatest confederacy of nations down to a town-meeting or a vestry; seeing that we must have somebody to quarrel with, — I had rather keep our New-England associates for that purpose, than to see our bickerings transferred to others. They are



The public dissatisfaction with the politico-financial measures adopted by Congress, on the recommendation of the secretary of the treasury, was far from being confined to the State of Virginia. It prevailed in Pennsylvania to a very wide extent. In the legislature of Maryland, a resolution, declaring the assumption to be a measure dangerous to the independent existence of the State governments, failed only by the casting vote of the speaker. In North Carolina and Georgia, the discontents were deeply felt and loudly expressed. But in Virginia they were embodied and proclaimed in a more imposing form than elsewhere.

The legislature of that State, which met in Richmond in the autumn of 1790, felt themselves called on, as guardians of the rights and interests of their constituents, to express their opinions of the principles and operation of the financial system recently fastened upon the nation. After the adoption of resolutions by the House of Delegates, expressive in general terms of their opinions on the subject, a committee of eleven was appointed, consisting in nearly equal proportion of members who had advocated and members who had opposed the adoption of the Federal Constitution, to embody the

circumscribed within such narrow limits, and their population so full, that their numbers will ever be the minority; and they are marked, like the Jews, with such a perversity of character, as to constitute from that circumstance the natural division of our parties. A little pa-

tience, and we shall see the reign of witches pass over, their spells dissolved, and the people, recovering their true sight, restoring their government to its true principles." — Letter to Colonel John Taylor, of Caroline, 1st June, 1798.

substance of those resolutions in a memorial to Congress. Mr. Corbin, a zealous advocate of the Constitution in the late convention of Virginia, was the chairman of the committee.<sup>1</sup>

The memorial pronounced, in manly and vigorous terms, a condemnation of the provisions of the Funding Act, as contrary to sound policy, to justice, and to the principles of the Constitution. It condemned, in particular, the restrictions placed on the redeemability of the public debt, as derived from the example of England, where the system had led to a perpetuation of the debt, and engendered a corrupt influence dangerous to liberty, and as calculated, in this country, "to erect and concentrate a large moneyed interest, which must, in the course of events, produce one or other of two evils, — the prostration of agriculture at the feet of commerce; or a change in the present form of federal government, fatal to the existence of American liberty."

The sweeping assumption of the State debts was represented as injurious and unjust to those States which, by persevering and strenuous exertions, had already discharged a considerable portion of the debts incurred by them during the war of the Revolution; and especially so to the State of Virginia, which had "redeemed a large proportion of her debt by the collection of heavy taxes levied on her citizens, and yet a heavy additional debt and taxes will

<sup>1</sup> The committee was composed of the following members, — Messrs. Corbin, Patrick Henry, Benjamin Harrison, Colonel Henry Lee, Callis,

Holmes, Lee of Fairfax, Burnley, Kennon, Cropper, and Wormley, — of whom the majority (seven) were original friends of the Constitution.

now be entailed on her, from which she cannot be relieved whilst any part of the debts contracted by the other States, and assumed by the United States, shall remain unpaid." The assumption was also considered as transcending the legitimate powers of Congress, according to a fair interpretation of the Constitution. The memorial concluded by expressing the hope, that "Congress will revise and amend the Funding Act generally, and repeal in particular so much of it as relates to the assumption of the State debts." This spirited remonstrance, after some modifications by the Senate, was agreed to by both branches of the legislature, and subsequently presented to Congress.

These proceedings of the legislature of Virginia formed the first instance in which the legislature of a State had exercised the right of remonstrating against an act of the general government. Although the power of State remonstrance was in accordance with the general principles and spirit of free institutions, and flowed directly from the genius and structure of a federal system, of which it is indeed an inseparable appendage, Colonel Hamilton denounced it, on this occasion, in terms of unmeasured vehemence. In a letter to the chief-justice of the United States, already referred to, he said, "This is the first symptom of a spirit which must either be killed, or will kill the Constitution. I send the resolutions to you, that it may be considered what ought to be done. Ought not the collective weight of the different parts of the government to be em-



ployed in exploding the principles they contain?"<sup>1</sup> And yet Colonel Hamilton, when recommending the Constitution to the people for their adoption, answered all their doubts and apprehensions of encroachment, by pointing with approving confidence to the *State legislatures*, as *sentinels* who would "sound the alarm if any thing improper should occur in the conduct of the national rulers," and laid it down "*as an axiom in our political system*," that the vigilance and warnings of the State governments will, "in every contingency," prove the proper and sufficient security "against invasions of the public liberty by the national authority."<sup>2</sup>

<sup>1</sup> See this letter in the *Life of Jay*, vol. II. pp. 202, 203.

<sup>2</sup> See papers of the *Federalist*, Nos. 26 and 28.

## CHAPTER XLII.

Congress re-assembles in December, 1790 — Speech of the President — Address of the House reported by Mr. Madison and unanimously Adopted — Additional Taxes proposed by Secretary of the Treasury to meet Assumption of State Debts — Excise on Distilled Spirits — Course and Opinions of Madison with regard to it — Proposition for a National Bank — Report of the Secretary of the Treasury, recommending it — Character and Tendency of his Financial Projects — Borrowed from English Examples — Bill for Incorporation of Bank passed by the Senate — Debate upon it in the House opened by Mr. Madison — He shows the Want of Constitutional Power in Congress to Establish such an Institution — Latitudinarian Arguments of its Adversaries — Answered by Mr. Madison in an Impressive Speech, closing the Debate — Bill passed by a Vote strictly Geographical ; all the Northern States voting for it, and the Southern against it — Embarrassments of the President — His Cabinet equally divided in Opinion on Constitutionality of the Act — He suspends his Decision to the Last Moment — Requests Mr. Madison to prepare a Veto for him, provisionally — Finally affixes his Signature to the Bill, from Deference to the Action of the Legislative Department, rather than from Conviction of his own mind — Statement of Mr. Madison on the Subject — Political Tendency of Certain Acts of First Congress — Progressive Divergence of Parties — Political Creed of Colonel Hamilton — Fundamental Principle of Difference between his System and that of Mr. Madison — President keeps aloof from Party Contentions — Resemblance between his Position and that of William the Third in England — Party Differences complicated by Questions growing out of the Foreign Relations of the Country — Hostile and Inexcusable Conduct of Great Britain — Different Attitude of France — Popular Appreciation of her Past Services, and Sympathy in her Present Struggle.

CONGRESS re-assembled on the sixth day of December, 1790, and now met in Philadelphia, according to the provisions of the act passed at the last session, respecting the temporary and permanent seat of government. The President, in his speech at the opening of the session, presented a cheerful view of the prospects of the country, with regard to its revenues and credit, and the great branches of the national industry; and concluded by expressing the hope, that the harmonious co-operation of the different departments would render "the established government more and more instrumental in promoting the good of our fellow-citizens, and more and more the object of their attachment and confidence."

In the House of Representatives, a committee of three, of which Mr. Madison was chairman, was appointed to prepare an address in answer to the speech.<sup>1</sup> The address, drawn by him, breathed throughout an affectionate attachment and confidence in the chief-magistrate, a general concurrence in his suggestions, and an earnest solicitude for the realization, in their fullest extent, of all the blessings hoped for from the new Constitution. It terminated with these patriotic assurances: "In pursuing every branch of the weighty business of the present session, it will be our constant study to direct our deliberations to the public welfare. Whatever our success may be, we can at least an-

<sup>1</sup> Mr. Ames of Massachusetts, and Mr. Tucker of South Carolina, were the other members of the committee.



swer for the fervent love of our country, which ought to animate our endeavors. In your co-operation, we are sure of a resource which fortifies our hopes that the fruits of the established government will justify the confidence which has been placed in it, and recommend it more and more to the affection and attachment of our fellow-citizens."

Although some of the topics of public interest referred to in the address had given rise to marked differences of opinion, both in Congress and the country, yet they were handled with so much delicacy and tact, that the address finally received the unanimous assent of the House in the precise form in which it was reported.

The business which first seriously engaged the attention of Congress was the provision for additional revenue, rendered necessary by the assumption of the State debts. The secretary of the treasury, in a report submitted the day after the address was voted, recommended, together with an increase of the duties already imposed on spirits imported from abroad, a tax, in the nature of an excise, on spirits distilled in the country, whether from foreign or domestic materials. This proposition met with a very warm opposition in several quarters of the House.

Mr. Madison, at the late session of Congress, foreseeing that a resort to excises would be the probable, if not inevitable, consequence of an assumption of the State debts, and thence drawing an additional argument against assumption, strongly

expressed his objections to this mode of taxation, "as giving arbitrary powers to the collector, exposing the citizen to vexatious searches, and opening the door to frauds and perjuries, that tend equally to vitiate the morals of the people and to defeat the public revenue."<sup>1</sup> But the assumption, in spite of his earnest and persevering opposition, had been carried; it was now the law of the land, without the possibility of getting rid of it; and the faith of the nation was pledged to provide adequate revenues for the stipulated payments of interest and principal. He would have preferred direct taxes to excises, as the means of meeting this demand on the national treasury. But to that resort there was understood to be an invincible repugnance, both in Congress and among the people. Nothing then remained for him, according to the view he took of his duties as a faithful legislator, bound to respect and provide for the engagements of the nation incurred through its legal representatives, than to give a reluctant assent to the measure proposed. He thus announced his conclusions to the House.

"He had felt," he said, "the force of the objections urged against the bill. He was, in general, principled against excises. But, of all excises, that on ardent spirits he considered the least objectionable. The question now to be determined, he conceived, is this, — Is an addition to the present amount of the revenue necessary? It had appeared

<sup>1</sup> See his speech of 22d April, 1790, *Annals of First Congress*, vol. II. p. 1593.

that an addition was necessary. For his own part, he should prefer direct taxes to any excises whatever. But this would be contrary to the sentiments of the majority of the people of the United States; and he was fully convinced that it was contrary to the opinion of a great majority of this House. If any mode could be adopted without having recourse to excises, he would be the last to give them his support; but he conceived there was none.”<sup>1</sup>

Influenced by these considerations, he finally voted, with reluctance, for the bill; which was passed in the House of Representatives by a vote of thirty-five to twenty, — four of the members present of the Virginia delegation voting against it; and three, including himself, for it.<sup>2</sup>

The next subject which occupied the attention of the House was a proposition for the establishment

<sup>1</sup> See *Annals of Congress*, First Congress, vol. II. p. 1894.

<sup>2</sup> In his private correspondence of this period, Mr. Madison gave the same account of the considerations which induced him reluctantly to vote for the bill. In a letter to his friend Judge Pendleton, of the 2d January, 1791, he says, “The report of the ways and means from the treasury department, for the assumed debt, has been published in the newspapers, and has, I presume, found its way to you through that channel. There are objections of different sorts to the proposed mode of revenue. But as direct taxes would be still more generally obnoxious, and as imports are already loaded as far as they will

bear, an excise is the only resource; and, of all articles, distilled spirits are least objectionable.”

In another letter to the same gentleman, of the 13th February, 1791, after the passage of the bill through the House of Representatives, he says, “The excise has undergone sundry alterations in the Senate, but none that affect its principle, or will affect its passage. In many respects it is displeasing to me, and a greater evil than a direct tax. But the latter would not be listened to in Congress; and would, perhaps, be not less offensive to the ears of the people at large, particularly in the eastern part of the Union.”



of a national bank. The secretary of the treasury, in a report presented at an early day of the session, had set forth, very elaborately and seductively, the advantages to the trade and industry of the nation, and the facilities in conducting its finances, which he supposed such an institution would afford. Without stopping to inquire what authority, if any, had been granted by the limited Constitution of the United States to erect so powerful a corporation, he dwelt complacently on the example of European governments in possession of such fiscal auxiliaries ; and proceeded, after the models which they furnished, to sketch the plan of a national bank, to be adopted by the American Congress.

He proposed for it a capital of ten millions of dollars, of which one-fourth only was to be in coin, and the remaining three-fourths to be subscribed in the public debt of the United States, bearing an interest of six per cent ; the government to subscribe one-fifth of the whole amount ; the management of the institution to be vested in directors chosen by the stockholders, and empowered to establish branches wherever they may think fit, within the United States ; and the secretary of the treasury to have the right of calling for weekly statements of the condition of the bank, and of inspecting its general accounts, if he should think proper to do so. The subscribers to the bank and their successors were to be incorporated, and to continue so until the final redemption of every part of the public debt subscribed to its stock ; its notes

were to be receivable in all payments to the United States ; and it was to be expressly stipulated, that no similar institution should be established during the existence of the one now to be chartered.

In contemplating the plan of the secretary of the treasury, it was impossible not to see in it a further scheme, of which the funding system and the assumption of the State debts were the first significant developments, to concentrate and embody the whole moneyed interests of the country in support of the Federal government ; to give them the unity and momentum of a legal incorporation ; and to rest the public administration mainly, if not exclusively, on a systematic propitiation of those interests, to the neglect of the great agricultural and producing classes. Hence open appeals were made by him, in his report, to the " moneyed and trading people," as alone furnishing the requisite foundation for the proposed bank ; the public creditors, or fundholders, were told of the rapidly favorable effect which the conversion of the public debt into bank stock would have on the market value of their securities ; and the " proprietors of land " were coolly reminded of their necessary exclusion from any direct participation in the benefits of the plan.

The whole policy of the secretary was manifestly borrowed from that era of the British government, in which a national bank was inaugurated by the same prolific genius that laid the foundation of the English funding system, with a year's interval only in the birth of the two projects ; and both

founded upon the insidious plea of strengthening and consolidating a new government, born of a revolution, by the subsidized support of the moneyed classes. If any proof were wanted of the English origin of the secretary's plan, he furnished it himself by the ready and triumphant appeal he made to the example of England at the period alluded to, as his all-sufficient justification for founding his projected bank so largely on the public debt.<sup>1</sup>

<sup>1</sup> That Hamilton was but a copyist of Montague, whom a late celebrated historian has pronounced "the most daring and inventive of financiers," is shown not only by the identity of their measures, but by the identity of the policy from which those measures sprang. A great contemporary writer, who was thoroughly initiated in all the political councils of his day, gives this instructive account of the origin of the English schemes of political finance :—

"It was said that a new government, established against the ancient principles and actual engagements of many, could not be so effectually secured any way, as it would be if the private fortunes of great numbers were made to depend on the preservation of it ; and that this could not be done unless they were induced to lend their money to the public, and to accept securities under the present establishment. Thus the method of *funding* and the trade of *stock-jobbing* began. Thus were great companies [the Bank, East-India Company] created, — the pretended servants, but in many respects the

real masters, of every administration." — Bolingbroke's *Reflections on the State of the Nation*. Elsewhere he says, "The great corporations, that had been created more to *serve the turn of party* than for *any real national use*, aimed, indeed, even then, at the strength and influence which they have since acquired in the *legislature* ; but they had not made the same progress, by promoting *national corruption*, as they and the court have since made." — *Sketch of the History and State of Europe from 1688 to 1713*.

We cannot forbear to add an aphorism of the same gifted political writer, who, whatever may have been the errors and eccentricities of his public career, has embalmed the great maxims of civil and political liberty in language of as eloquent inspiration as any writer of his age or country. It may stand as a warning against the refined schemes of any who, in a land of staid, uncorrupted freedom, may be tempted to imitate the policy of a Montague or a Walpole.

"The landed men," says Boling-



The plan of the secretary of the treasury was first taken up in the Senate; and a bill for carrying it into effect, with no material variation but that of limiting the charter to a period of twenty years, instead of making it co-durable with the public debt, was passed by that body. When the bill came down to the House, it was soon manifest that it was to meet a spirited and determined resistance there, however unequal the opposing numbers in the contest. The debate was opened by Mr. Madison in a speech of great power and ability, of which, unfortunately, as of the whole debate, the contemporary report furnishes but a very imperfect and meagre sketch.<sup>1</sup>

He began with a general review of the advantages and disadvantages of banks, and thought that the most important of the proposed advantages would be better obtained by several banks, properly distributed, than by a single one. "The case in America," he said, "was different from that in England, where the interest of the public debt was all due at one point, and the genius of the monarchy favored the concentration of wealth and

broke, "are the *true owners* of our political vessel. The *moneyed men* are no more than *passengers* in it. To the first, therefore, all exhortations to assume a disinterested public spirit should be addressed. It is their part to set the example; and, when they do so, they have a right to expect that the *passengers* should contribute their proportion to save the vessel."—Reflections

on the State of the Nation, Bolingbroke's Works, vol. III. p. 174.

<sup>1</sup> Mr. Madison, in forwarding to Judge Pendleton, on the 13th February, 1791, a newspaper containing the contemporary report of the arguments against the bank, says, "They are extremely mutilated, and in some instances perverted, but will give an idea of the turn which the question took."

influence at the metropolis." The details of the plan he considered liable to other objections, as not making so good a bargain for the public as was due to its interests, and also "as giving an undue preference to the holders of a particular denomination of the public debt, and those at or within reach of the seat of government."

But the stress of his argument was in demonstrating the want of any constitutional authority in Congress to establish such an institution. He well recollected, he said, that a power to grant charters of incorporation had been proposed in the general convention, and rejected.<sup>1</sup> He then adverted to the peculiar character of the Federal government, as one of limited and specified powers, — "not being a general grant, out of which particular powers are excepted, but a grant of particular powers only, leaving the general mass in other hands, — those of the States;" and, if experience should prove that other powers were desirable, the Constitution itself pointed out a regular mode for obtaining them, by recurrence to the original parties. He next reviewed, in a close and searching analysis, the various clauses of the Constitution from which the power of establishing a bank had been attempted to be deduced; and showed that none of them could receive such an interpretation, without indulging in a looseness of implication utterly "destructive of the essential characteristic of the

<sup>1</sup> Journal of Convention, 18th August and 14th September, 1787; and Mad. Deb., vol. III. pp. 1354 and 1576.

government, as one of limited and enumerated powers."

From the text of the Constitution itself, he passed to the contemporary expositions which had been given of it. He showed in what manner its provisions had been explained by the advocates of its adoption; the sense in which they were understood by the people, when deliberating on its acceptance; and the sense in which the instrument was finally agreed to by the State conventions that ratified it. By reference to the published debates of those conventions, as well as to other contemporary publications which recommended and explained the principles of the Constitution, while it was depending before the States for their sanction, he showed that it was universally understood and declared at the time, that all powers of legislative and political action, not specifically granted by the Constitution to the general government, were retained by the people or the States; and particularly that the clause, authorizing the passage of "all laws necessary and proper" for carrying the express grants of the Constitution into effect, which was now specially invoked as authorizing the establishment of a bank, was then understood and *represented* as giving no additional power whatever, but as declaratory simply of a general principle of jurisprudence which would have equally existed without it.<sup>1</sup>

Having sustained his statement of the contemporary exposition of the Constitution by irrefragable

<sup>1</sup> See Federalist, No. 44.



proofs, he brought it home with great power to the conscience and moral sentiments of the House.

“With all this evidence,” he said, “of the sense in which the Constitution was understood and adopted, will it not be said, if the bill should pass, that the adoption of the Constitution was brought about by one set of arguments, and that it is now administered under the influence of another? And this reproach will have the keener sting, because it is applicable to so many individuals concerned in both the adoption and the administration. . . . Under such circumstances, the exercise of the power asserted in the bill involves all the guilt of usurpation; and establishes a precedent of interpretation, levelling all the barriers which limit the powers of the general government and protect those of the State governments.”

However powerful this appeal, it soon appeared that it was without effect upon many of those to whom it was addressed. Mr. Ames, Mr. Sedgwick, and Mr. Gerry of Massachusetts, Mr. Lawrence of New York, Mr. Boudinot of New Jersey, Mr. Smith of South Carolina, and Mr. Vining of Delaware, undertook to answer the arguments of Mr. Madison. Their mode of reasoning set at naught every principle of a limited Constitution. The first gentleman laid it down as a fundamental axiom, that “every government, from the instant of its formation, has tacitly annexed to its being the various powers which are essential to the *purposes* for which it was framed;” and the last recurred to

the Declaration of Independence, as the source from which the United States derive all the powers appertaining to a nation, and consequently the power under consideration."

All of them united in the doctrine, that Congress, in the exercise of power, was not restricted to the means necessary and proper for the execution of the *powers* specifically granted, according to the language of the Constitution; but might do whatsoever it deemed necessary and proper to the *ends* for which the Constitution was adopted and those powers were conferred. Hence they drew largely both upon the preamble of the Constitution, and the language used in the eighth section of the first article, relative to the "common defence and general welfare," in connection with the power of taxation, as the sources from which they derived the power to establish a national bank.

Pretensions so startling it was difficult to treat with coolness and moderation. After able speeches in reply, by Mr. Stone of Maryland, Mr. Giles of Virginia,<sup>1</sup> and Mr. Jackson of Georgia, Mr. Madison closed the debate in a condensed and vigorous review of the arguments of his opponents.

He first noticed the fundamental axiom of Mr. Ames, that government necessarily possesses every power essential to the *purposes* for which it was

<sup>1</sup> Mr. Giles had come into Congress as the successor of Mr. Bland, who died in New York during the preceding session. Mr. Grayson, one of the senators of Virginia, had

also died, and his place was now filled by Mr. Monroe, after having been temporarily supplied, under an executive appointment, by Colonel John Walker, of Albemarle.

formed; and said, whatever plausibility this axiom might carry with it in the theory of other governments, it was wholly inapplicable to the government of the United States. The restrictive clause contained in the Constitution, with regard to incidental powers, was a limit which could not be passed.

“The preamble of the Constitution,” said he, “has produced a new mine of power. But this is the first instance he had heard of in which the preamble has been used for such a purpose. In his opinion, the preamble only states the objects of the Constitution, and the subsequent clauses designate the powers by which those objects are to be obtained. . . . The clause which empowers Congress to pass all laws necessary and proper for the execution of the enumerated powers, has been brought forward repeatedly by the advocates of the bill. He noticed the several constructions of this clause which had been offered; and concluded from them, that, in the opinion of gentlemen, Congress may do whatever they please. . . . The constructions of the Constitution, which have been maintained on this occasion, go to the subversion of every power whatever in the several States. But we are told, for our comfort, that the judges will rectify our mistakes. How are the judges to determine in the case, if they are to be guided in their decisions by the rules of expediency?”

In the course of his reply, he addressed this significant and impressive admonition to the cham-



pions of the latitudinarian principles which had been contended for:—

“The energetic administration of the government is said to be connected with this institution. He here stated the principles on which he conceived the government ought to be administered. Other gentlemen may have had other ideas on the subject, and may have consented to the ratification of the Constitution on different principles and expectations. But he considered the enlightened opinion and affections of the people as the only solid basis for the support of this government.”

The limitations of the Constitution proved a feeble barrier against the blind devotion of a party following the lead of a bold and enterprising chieftain, and reposing implicit faith in the realization of all the golden promises of private and public advantage he held out to them. The question on the passage of the bill was carried in the affirmative, by a vote of thirty-nine to twenty, divided strictly by a geographical line,—the States of Maryland, Virginia, North Carolina, South Carolina, and Georgia (Virginia and Georgia unanimously) voting against it; and all the other States, for it.

This decision greatly widened the division of parties that had grown out of the funding system and the assumption of the State debts, and served to mark still more strongly their distinctive features and opposing creeds. Mr. Madison, in writing to his friend Judge Pendleton, a few days after the passage of the bill, says, “The subject has been decided,

contrary to your opinion as well as my own, by large majorities in both Houses, and is now before the President. . . . The arguments in favor of the measure rather increased my dislike to it, because they were founded on remote implications, which strike at the very essence of the government, as composed of limited and enumerated powers. The plan is, moreover, liable to a variety of other objections which you have so judiciously developed."

Nothing could have been more painful and embarrassing than the situation in which the President was placed by the conflicting opinions which accompanied and followed the passage of the act. The measure originated with a member of his cabinet, and had been zealously and actively pressed by that officer on the legislature. The objections brought against it, especially that of unconstitutionality, were of so grave and weighty a character, and had been presented with such power of argument and sincerity of conviction, that the President could not but feel the force of them, as well as respect them. As soon as the bill came before him for his approval, he referred it to the attorney-general, for his opinion on the constitutionality of the act. The attorney-general gave his opinion, enforced by a written argument, that the act was not warranted by the Constitution. The President next called upon the secretary of State for his opinion, which coincided with that of the attorney-general; and both opinions were communicated to the secretary of the treasury, that he might have an opportunity of ex-

amining and replying to them, before the President made up his final judgment on the subject.

Colonel Hamilton had these papers under his consideration for about a week, and then sent in to the President a most elaborate argument, highly artificial and forensic,<sup>1</sup> in answer to the objections of the secretary of State and the attorney-general, and developing and enforcing the same topics by which the constitutionality of the act had been sustained in debate before the House. Such was the conflict of doubts in the mind of the President, that he retained the bill in his hands to the very last moment of the time allowed him by the Constitution for deliberation; and then returned it to the House, in which it originated, with his signature.

A distinguished historian of the times, the political biographer of Washington, has stated that "the President's deliberate investigation terminated in a conviction that the Constitution of the United States authorized the measure."<sup>2</sup> There is every reason, however, to believe that the President still retained his doubts, notwithstanding the official annexation of his signature to the bill. According to the view he took of the spirit and intention of the Constitution, in allowing a Presidential negative on the acts of the legislative department (and such, too, was the opinion expressly given to him by the

<sup>1</sup> It is said that Colonel Hamilton, in preparing his argument, consulted and advised with a distinguished lawyer of Philadelphia, Mr. William Lewis, whose reputa-

tion was exclusively professional.—Hist. Am. Rep., vol. iv. p. 247.

<sup>2</sup> Marshall's Life of Washington (second edition) vol. II. p. 205.



secretary of State on this occasion), it was only in cases of clear error or usurpation committed by the legislature, that the application of the executive veto was to his mind justifiable. In a letter to an illustrious friend in Virginia, a year or two later, he says, "From motives of respect to the legislature (and, I might add, from my interpretation of the Constitution), I give my signature to many bills with which my judgment is at variance. . . . I never had such confidence in my own power of judging, as to be over tenacious of opinions I may have imbibed in doubtful cases."<sup>1</sup>

From the peculiar opportunities which Mr. Madison possessed of knowing the whole process of the President's deliberations, and the real state of his mind on the subject of the bank, as well as his acquaintance with the critical relation of political parties at the time, the following memorandum, left among his papers, will commend itself to the candid and thoughtful consideration of the reader:—

"The constitutionality of the National Bank was a question on which his [Washington's] mind was greatly perplexed. His belief in the utility of the establishment, and his disposition to favor a liberal construction of the national powers, formed a bias on the one side. On the other, he had witnessed

<sup>1</sup> Letter to Judge Pendleton, of 23d September, 1793; which see in Sparks's Washington, vol. x. pp. 371, 372. The same view, with regard to the Presidential veto, was

expressed by Mr. Jefferson to the President at the time of his action on the Bank Bill.—See Opinion on Constitutionality of Bank, in Jefferson's Writings, vol. iv. p. 527.

what passed in the convention which formed the Constitution ; and he knew the tenor of the reasonings and explanations under which it had been ratified by the State conventions. His perplexity was increased by the opposite arguments and opinions of his official advisers.

“ He held several free conversations with me on the subject, in which he listened favorably, as I thought, to my views of it, but certainly without committing himself in any manner. Not long before the expiration of the ten days allowed for his decision, he desired me to reduce into form the objections to the bill, that he might be prepared in case he should return it without his signature. This I did in a paper of which the following is a copy (which see and here insert). From this circumstance, with the manner in which the paper had been requested and received, I had inferred that he would not sign the bill. But it was an inference no wise implying that he had precluded himself from consistently signing it. As it was, he delayed to the last moment the message communicating his signature.<sup>1</sup>

<sup>1</sup> The writer of these pages well recollects having seen and read, among the original manuscripts of Mr. Madison, at Montpelier, the draught of the veto message for President Washington here referred to. After the transfer of those manuscripts to the city of Washington by the widow of Mr. Madison, in her own removal to that city, and the subsequent

disposal of them to the Federal government, the paper, in the frequent references there made to it, was lost or mislaid. The writer has been informed that it was in the hands of President Polk at the time he was preparing his veto message on the Internal Improvement Bill, and was, perhaps, forgotten to be returned by him to the files of which it formed a part.

“The delay had begotten strong suspicions in the zealous friends of the bill, that it would be rejected. One of its ablest champions, under this impression, told me he had been making an exact computation of the time elapsed; and that the bill would be a law, in spite of its return with objections, in consequence of the failure to make the return within the limited term of ten days. I did not doubt, if such had been the case, advantage would have been taken of it, and that the disappointed party would have commenced an open opposition to the President; so great was their confidence in the wealth and strength they possessed, and such the devotion of the successful speculators in the funds, and of the anti-republican partisans, to the plans and principles of the secretary of the treasury. The conversation had scarcely ended, when the message arrived with notice that the bill had been approved and signed.”

Many other occasions will occur in the progress of this narrative to show how much more the bold, ardent, and ambitious schemes of the secretary of the treasury, their actual head and leader, were the objects of confidence and devotion with the party now forming the majority in both Houses of Congress, than were the serene, cautious, and republican virtues of the President, who, from the head of the nation, thought neither duty nor dignity permitted him to descend and become the head of a party.

On the 3d day of March, 1791, soon after the



passage of the Bank Bill, the First Congress which assembled under the Constitution closed its third session, and with it completed the biennial term of its existence. Before its adjournment, it passed a resolution fixing the meeting of the next Congress for the fourth Monday in October following.

The labors of the First Congress were of the highest importance, in organizing the various departments of the new government, and putting its machinery into regular and active operation. In this preliminary task, which was the special work of their first session, although considerable differences of opinion arose, and were discussed with much earnestness and ability, yet they gave rise to no systematic division of political parties. It was during the second and third sessions, mainly occupied with the financial schemes of the secretary of the treasury, all of which were marked by decided political bearings, that the foundation was laid for a permanent and clearly defined organization of parties under the new Constitution. In his funding system, in the assumption of the State debts, and in the proposal of a national bank, and the principles on which these measures were pursued and advocated by him and his friends, a design was seen to concentrate and organize a powerful moneyed influence in the interest and under the control of the Federal government; and to give to that government a tone and energy far beyond what was contemplated by the founders of the Constitution, and at war with the republican genius of the

people, the independence of the States, and the purity of the public morals.

While these measures of administrative policy were considered as fraught with decided anti-republican tendencies, a disposition was discovered, by the same party that favored them, to surround the new government with exterior ceremonies, conforming it to the likeness of European monarchies, especially to the favorite model of the British government. A proposition, as we have seen, was made during the first session of the First Congress, greatly to the annoyance of the President, to bedizen him with a superb but spurious title, borrowed from the pageantry of regal institutions.<sup>1</sup> This proposition, though received with favor by one branch of the legislature, was sternly rejected by the republicanism of the other. Greater success, for a time, attended the essay of copying the British ceremonial in the opening of parliament by the sovereign in person; and the President, in pursuance of the forms prescribed for him, opened the sessions of Congress with a *speech*, echoed by responsive *addresses* from the two Houses. This practice, accompanied with much unsuitable pomp and productive of real political inconveniences in a republican government, was happily laid aside, with all its accessories, on the fourth election of President.

General Washington, on his arrival at New York to assume the burthensome duties of his new office,

<sup>1</sup> See ante, chap. xxxvii. pp. 10-12.

felt the absolute necessity of so regulating his intercourse with society, as to prevent the time "which was primarily due to the official duties of his station,"<sup>1</sup> from being dissipated in company, or broken in upon by idle and unseasonable calls. For this purpose, he sought the counsel of officers of the government, and of friends better acquainted than himself with the usages that had grown out of like positions in civil and political life. To their opinions he deferred; and the result was a system of periodical and formal receptions, under the name of *levees*, imitated, in a great degree, from the practice of European courts. Some of the observances of the prescribed programme were so repugnant to his native dignity of character, as an aping of royalty, that he indignantly broke loose from them; while others were submitted to with a chafing impatience of spirit.<sup>2</sup>

The secretary of the treasury, the master-spirit of the now-dominant party, was well known to be strongly inclined in favor of monarchical institu-

<sup>1</sup> Letter to Mr. Madison of 12th May, 1789, in Sparks's Washington, vol. x. p. 5.

<sup>2</sup> The anecdote related by Mr. Jefferson, upon the report of Tobias Lear, Esq. (Writings of Jefferson, vol. iv. pp. 477, 478), of the indignation manifested by Washington, when Colonel Humphreys ushered him in at one of the levees, crying out as he preceded him, "*The President of the United States*," is confirmed by Mr. Madison, who was an eye and ear witness of the

scene. (See detached memoranda in manuscript). The letters addressed by Mr. Adams and Colonel Hamilton to General Washington, containing their suggestions with regard to the ceremonial of the levees, show how much they were both under the fascination of foreign monarchical examples. — See the letter of the former in Sparks's Washington, vol. x. pp. 466-468; and of the latter in Hamilton's Works, vol. iv. pp. 1-3.



tions, and in particular to be a passionate admirer of the British system of government, as well in practice as in theory. His object was, by administrative expedients, to bring the government of the United States into as near an approximation as possible to that model; and, by political manipulations, to impress upon it the form and character he had in vain sought to give it in its original formation. Mr. Adams, the second officer of the government, sympathized to a great extent in the political principles of Colonel Hamilton; and had recently stooped from the dignity of his station, by publishing anonymously, in one of the gazettes of the day, under the title of “Discourses on Davila,” a lumbering series of papers, to enforce his favorite theory of a government of orders, of which the British Constitution was held up as the *beau ideal*.<sup>1</sup>

<sup>1</sup> The precise line of separation between the political creeds of the Vice-President and the secretary of the treasury has been given by a distinguished contemporary and associate, who had the best opportunities of knowing the sentiments of both from their own declarations, which he has thus recorded. The former was for the British Constitution, “purged of its corruption, and with equal representation in its popular branch.” The latter was for the British Constitution, “as it stands, with all its supposed defects; for purge it of its corruption, and give to its popular branch equality of representation, and it becomes an *impracticable* government.” — Jefferson’s Writings, vol.

iv. pp. 450, 451. It was, doubtless, the view here taken of what rendered the British government a *practicable* government, which led the secretary to attach so much importance to his funding and banking systems, as engines of political influence. That an improper influence was brought to bear on the proceedings of the two first Congresses, through the instrumentality of those systems, producing a squad of voters in each House at the devotion of the treasury, which turned the scale in all doubtful questions, has been repeatedly and solemnly affirmed, and upon grounds of evidence and probability too strong to be reasonably doubted. — See letters of Mr. Jef-

It was by a natural association of ideas, therefore, that the party which, under the lead of Mr. Madison, had opposed in Congress the financial schemes and general policy of the secretary of the treasury, came to be distinguished by the name of the Republican party. The followers of the secretary adhered to the name of Federalists, because it was through the agency of the Federal government, and by an insidious extension of its powers only, that the objects they had in view could be consummated, while prudence forbade the open avowal of ulterior designs involving a change in the fundamental principles of the government itself. It was, nevertheless, true that the republican party was, in a just and proper sense of the term, *federal*; for their object was to maintain the Federal Constitution in its genuine, original principles, as it was understood both by its framers and the people, and to prevent its perversion into something wholly different from what it was intended and believed to be at the time of its adoption.<sup>1</sup>

Jefferson to General Washington, of 23d May and 9th September, 1792, in Sparks's Washington, vol. x. 506 and 519; to Mr. E. Randolph, of 3d February, 1794, in Jefferson's Writings, vol. III. p. 302; idem, vol. IV. pp. 448, 457, 468, 470, 477; and Statement of Mr. Madison, ante, p. 58.

<sup>1</sup> The following statement of Mr. Madison, marked by his characteristic moderation, in a conversation with Mr. Nicholas P. Trist, carefully noted down at the time,

furnishes the true clew to the history of parties at the period referred to in the text, as well as to the different political paths pursued by himself and Colonel Hamilton.

"As to the other branch of the subject," said Mr. Madison, "I deserted Colonel Hamilton, or rather he deserted me; in a word, the divergence between us took place from his wishing to *administration*, or, more properly speaking, to administer (these were Mr. Madison's very words), the government

From this conflict of parties, the President stood aloof. He was the chief magistrate of the nation; and his self-respect and his duty alike forbade him to become the leader of a party. The striking resemblance between his situation and that of the magnanimous ruler who was charged with the rescue of English liberty just a century before, led them into the same line of political conduct. Called, each of them, to the head of affairs after a revolution in the government, not by the voice of a party but by the general concurrence of the nation, each refused to surrender himself to the demands of a faction, and aimed solely and bravely at the union, harmony, and welfare of the whole people. The task was one of extreme delicacy and difficulty in the hands of Washington, as well as of William the Third; and its execution produced remarkable parallels, as the further progress of this narrative will disclose, in the experience and fortunes of the two great national rulers.<sup>1</sup>

Washington commenced, as William had done, by calling into the administration men of the high-

into what *he* thought it ought to be; while, on my part, I endeavored to make it conform to the Constitution, as understood by the convention that produced and recommended it, and particularly by the State conventions that adopted it."—See Mr. Trist's memorandum, cited in Randall's *Life of Jefferson*, vol. III. p. 595.

<sup>1</sup> Lord Macaulay, speaking of the exactions of the dominant party

in England on William the Third, says, "The Whigs loved William, indeed, but they loved him not as a king, but a party leader; and it was not difficult to foresee that their enthusiasm would cool fast, if he should refuse to be the mere leader of their party, and should attempt to be the king of the whole nation."—*Hist. Eng.*, vol. III. p. 9. He did refuse for several years—but with the predicted consequence



est qualifications and experience with reference to the duties of their respective departments. He selected them, as William selected his ministers, from different political parties, that the various shades of opinion among the people might be fairly represented in the government. Jefferson, secretary of State, for which post he was recommended by his experience and ability in foreign affairs, as well as by the prestige of his revolutionary fame, was of the republican party, with strong democratic leanings. Hamilton, who had from an early period devoted his attention to financial subjects, and was, for that reason especially, appointed to the treasury department, belonged to the denomination of Federalists, with a decided bias in favor of a government of monarchical genius. With the former agreed the attorney-general, Randolph; with the latter, the secretary of war, Knox: and thus were the political proclivities of the cabinet balanced.

The President himself was, in principle, a conservative Republican, removed alike from democratic and monarchical prepossessions, and firmly attached to the Constitution of his country, as it came from the hands of the convention, and as it was accepted by the people. Considering it his duty to give his official sanction to all such acts of

to himself—to be the leader of a party, and proudly maintained the position of chief of the nation. Danby and Halifax, Nottingham and Shrewsbury, in the first cabi-

net formed by him, were but the political prototypes of Hamilton and Jefferson, Knox and Randolph, in the cabinet of Washington.

the legislature as were not clearly, to his mind, infractions of the supreme law, or contrary to justice and the public good, he was the better enabled to maintain a position of elevated neutrality with regard to the party dissensions of the time, as his signature, under these circumstances, to an act of Congress which may have been the subject of much party controversy, did not infer necessarily his individual approbation of it.

Besides the differences of political principle already adverted to, another important element entered into the early formation of parties under the new Constitution. The conduct of Great Britain towards the United States, since the treaty of peace which closed the war of the Revolution, had been such as to furnish grave and extensive grounds of dissatisfaction. In the first moments of the peace, while withdrawing her forces from the city of New York, she had, as we have seen,<sup>1</sup> in open violation of an express stipulation of the treaty, taken away a large number of negroes belonging to citizens of the United States, and had hitherto evaded every demand either for their restoration or an equivalent indemnity. In like contempt of a solemn and vital stipulation of the treaty, and to the injury of most important rights and interests of the United States, she continued to hold various military posts within the acknowledged territorial limits of the Union; and, when at length formally summoned to relinquish them, she refused to do so, and coolly re-

<sup>1</sup> Vol. II. of this work, chap. xxvi.

ferred, in her justification, to certain proceedings of some of the States with regard to debts and confiscations, which, if infractions of the treaty at all (as they were shown not to be), were posterior to and occasioned by the flagrant violations of which she set the first example.<sup>1</sup>

With regard to the commercial intercourse of the two countries, she acted with the same illiberality and injustice, — emboldened at first by the well-known inability of the United States, under the feeble system of the Articles of Confederation, to adopt any effective policy of retaliation. While her ships and merchandise were freely admitted, at rates of duty almost nominal, into all the ports of the United States, she excluded altogether American ships, laden with American productions, from a large portion of her dominions — the colonies — with which, in times past, a most extensive

<sup>1</sup> Mr. Adams's formal demand for the surrender of the posts was made on the 8th of December, 1785; and the Marquis of Carmarthen's reply was on the 28th of February, 1786. — See these documents in *Secret Journals of Congress*, vol. iv. pp. 186–189.

Nothing could be more conclusive and victorious than Mr. Jefferson's exposure of the futility of the pretexts alleged by the British government for its violations of the treaty of peace. Its prevarications are thus powerfully summed up in his memorable answer to the British Minister, Hammond, of the 29th of May, 1792: —

“The other party (Great Britain) now laid hold of those very proceedings of our States, which its previous infractions had produced, as a ground for further refusal; and, inverting the natural order of cause and effect, alleged that these proceedings of ours were the causes of the infractions which they had committed months and years before.” — See Waite's *State Papers*, vol. i. p. 290. The intelligent reader will not fail to observe how different the view here given of the controversy with Great Britain is from that presented by Mr. Jay in 1786, as detailed in second volume of this work, chap. xxvi.



and mutually beneficial trade had been maintained; and although her home ports were not peremptorily closed against American ships and productions, yet many articles of the latter were loaded there with most exorbitant, and in some instances prohibitory, duties.

To obtain some correction of this unequal and injurious state of things in the relations of commerce, as well as to press a fulfilment of the treaty of peace, the United States sent a minister with full powers to the court of London. But his applications on every point were rejected or evaded, and treated in such a way as to evince that a spirit of enmity, jealousy, and resentment had survived the late conflict of arms, and that nothing would be yielded to justice or conciliation, while the United States were either unable or unwilling to assert a national power of self-protection.<sup>1</sup>

At length, the Constitution of 1788 was adopted, and the plenary power of regulating commerce with foreign nations was vested in the national Congress. That instrument had also effectually removed every pretext for the non-execution of the treaty of peace on the part of Great Britain, by the provision it made for a national judiciary, insuring thereby the punctual fulfilment of the treaty in every particular on the part of the several States, as well as of the Union. The time was

<sup>1</sup> See the correspondence of Mr. Adams, during the period of his mission in England, from 1785 to 1788, in Works of John Adams, vol. VIII. pp. 233-481.

therefore come, it was justly thought, to renew the effort for placing the commercial intercourse between the two countries on a more equal and satisfactory footing, and to urge the final execution of the treaty of peace by Great Britain.

As she had hitherto declined to interchange diplomatic representatives with the United States, the President intrusted to an able and distinguished citizen of the United States, then in Europe,<sup>1</sup> the agency of ascertaining, by informal conferences with the British ministry at London, their present dispositions with regard to an adjustment of the matters in controversy. Some vacillations in their policy were occasioned, at first, by a pending difficulty with Spain, which, if it should eventuate in a rupture, would render the friendship of the United States of great value to England, but which being finally compromised remitted her to her former state of haughty indifference. In the sequel, the English ministry manifested a greater impracticability than ever in relation to a fair and honest fulfilment of the treaty of peace; showed an evident disposition to keep permanent possession of the military posts, under some new and shallow pretext; and adjourned indefinitely the question of reciprocity in the commercial relations of the two countries.<sup>2</sup>

<sup>1</sup> Mr. Gouverneur Morris.

<sup>2</sup> All these conclusions manifestly result from the communications of Mr. Morris with the British ministry. His correspondence with the President and secretary of

State, rendering an account of those communications (from March to December, 1790), is full of instructive developments.

The influence of the different phases of the Nootka-Sound con-

Under these circumstances, a very large portion of the people of America, and some of her ablest and wisest statesmen, thought that every consideration of justice, of policy, of honor, of na-

troversy with Spain, on the tone and language of the English government, is plainly perceptible throughout. The armament, in expectation of a rupture with Spain, commenced in May, 1790: and from that moment the expressions of a desire for a friendly settlement with America by the prime minister himself, Mr. Pitt; by the secretary for foreign affairs, the Marquis of Carmarthen; and by other members of the ministry, —were warm and cordial. In October, 1790, the difficulty with Spain was finally adjusted. After that time, the British ministry coolly reverted to its original position of haughtiness and impracticability; and every effort on the part of Mr. Morris, for farther interviews with the secretary for foreign affairs, was dexterously evaded. — See *Life and Correspondence of Gouverneur Morris*, vol. II. pp. 3–56.

The secretary of State, Mr. Jefferson, in an official report to the President on the despatches of Mr. Morris, thus sums up his conclusions from them: —

“The secretary of State is of opinion, that Mr. Morris’s letters remove any doubts which might have been entertained as to the intentions and dispositions of the British cabinet; that it would be dishonorable in the United States, useless and even injurious, to renew the propositions for a treaty of com-

merce, or for the exchange of a minister; and that these subjects should remain dormant till they shall be brought forward earnestly by them; that the demands for the posts, and of indemnification for the negroes, should not be again made, till we shall be in readiness to do ourselves the justice, which may be refused; and that Mr. Morris be informed that he has fulfilled the object of his agency to the satisfaction of the President, in ascertaining the real views of the British ministry; and that he leave the matters committed to him, as they now stand.”

These recommendations received the sanction of the President; and on the 14th of February, 1791, he addressed a message to the Senate, in which, after summing up the results of the despatches received, he informed them that “Mr. Morris had been directed to discontinue his communications with the British ministry.” — See *Annals of Congress*, First Congress, p. 1801, and *Jefferson’s Works*, (Congress edition), vol. VII. pp. 517–519.

At the same time that Mr. Morris was in England, the British ministry, instead of accrediting a formal mission to the United States, as they should have done in return for the previous official mission of Mr. Adams to London, authorized a *second-hand* appointment of a *secret*



tional dignity and self-respect, required that some proper measure of counteraction should be adopted by the Congress of the United States, to bring home to the interests of Great Britain herself the effects of her persevering illiberality and injustice; and that, in all our intercourse with her, we should show ourselves to be in fact what we had declared ourselves in name,—an independent people.

It was under the influence of these principles that Mr. Madison, with the hearty concurrence, as we have seen, of President Washington, brought forward, during the first session of the first Congress, his proposition for a discrimination between the vessels of nations which had entered into commercial arrangements with the United States, and of those which had not.<sup>1</sup> Guided by the same general principles, he again, during the second session of that Congress, brought forward and sustained a proposition, on a yet wider basis, for applying the rule of reciprocity throughout to our whole system of commercial intercourse; dealing out to each nation the same measure of favor or restriction which

agent, through their Governor-general of Canada, Lord Dorchester. This person, Major Beckwith, was furnished with letters from Lord Dorchester only. His principal business seems to have been to learn, as far as he could, the real state of the relations between the United States and Spain. Neither the President nor the secretary of State held any interview with him,

as he had nothing to show from the British Minister. He had repeated communications with Colonel Hamilton (see Sparks's *Washington*, vol. x. pp. 116, 160–162, and 494–497); and in one instance a conversation with Mr. Madison, of which a memorandum is preserved among the papers of the latter.

<sup>1</sup> Ante, chap. xxxvii. pp. 20–28.

they respectively dealt to us in the treatment of our ships or productions.<sup>1</sup>

The justice and sound policy of these principles, in the abstract, could not be, and was not, denied. But their bearing on the actual condition of the trade with Great Britain, and the colonial subordination to that power in which so many had been nurtured and which they were not yet able to throw off mentally, strengthened by political sympathies and exaggerated fears of the consequences of a commercial conflict, were in each instance sufficient, under the management of adroit leaders, to postpone or defeat the measures proposed. The influence of the secretary of the treasury was well known to be earnestly and actively exerted against them; and the division on these and like questions, growing out of the hostile and arbitrary conduct of Great Britain towards the United States, was in the main coincident with the division that had already taken place, on other principles, under the denomination of Federalist and Republican.

The Republicans, who were avowed and determined opponents of the wrongs and injustice of Great Britain, and earnest in their efforts to apply a practical corrective, were accused by their political adversaries, the Federalists, of being actuated in their turn by an undue partiality to France. But in no just sense could a cordial and grateful recollection of the valuable services rendered by that power to the United States, in their unequal strug-

<sup>1</sup> Ante, chap. xli. pp. 133-138.

gle for independence, or a disposition to reciprocate the advances since made by her towards a liberal and profitable commerce, be considered as the offspring of an undue partiality. They were just and natural sentiments ; and, as such, were shared by the great body of the American people. Some of the leaders of the Federal party, in their exclusive predilection for England, sought to repress these sentiments by depreciating the proofs which France had given of her friendship for the United States ; or by inculcating the revolting doctrine, opposed alike to the precepts of morality and sound policy, that among nations gratitude is a feeling which has no legitimate existence or solid foundation.<sup>1</sup>

When France was at length engaged in a vital struggle for her own liberties, against the accumulated abuses of centuries of misgovernment and oppression, nothing was more natural than that the people of the United States should sympathize in the fortunes of a struggle, on which not only the destinies of a former ally and friend, but the hopes of future amelioration in the condition of mankind at large, seemed so much to depend. In this light, the French Revolution, in its origin,

<sup>1</sup> This doctrine was most elaborately inculcated by the secretary of the treasury, in a written opinion given by him to President Washington, as early as September, 1790, in favor of allowing a free passage to British troops through the terri-

tory of the United States, for the purpose of invading the adjacent Spanish possessions, with which we were at peace. — See the opinion in Hamilton's Works, vol. iv. pp. 48-69.



was viewed by the enlightened friends of progress and improvement throughout the world. As yet, it had been soiled by no wanton or deliberate crime; and even in England, the hereditary rival and enemy of France, a large majority of her people, of her statesmen, and of her philosophers, were at first hearty well-wishers to the cause of the Revolution.<sup>1</sup>

It would have been unnatural and reproachful, indeed, if this had been less the case in America. But while the great body of the American people, and the republican party especially, warmly sympathized in the efforts of social and political regeneration in France, the leaders and influential exponents of that sentiment here never failed, as we shall see, to assert with manly firmness the rights, the dignity, and the honor of their country, as often as they were threatened by the maddening violence of the revolutionary tornado, when it swept along our shores; and to exert all their influence to keep the nation from being drawn, on either side, into the maelstrom of the general European war which it occasioned.

<sup>1</sup> This is admitted by Alison, with the whole current of his principles and prepossessions on the

other side. — See Hist. Europe, vol. I. chap. VI.

## CHAPTER XLIII.

Tour of the President in the Southern States — Excursion of Mr. Jefferson and Mr. Madison in the North — Mr. Madison spends Several Weeks in New York — Communications with Freneau — Circumstances which led to the Establishment of a Political Journal in Philadelphia by the Latter — Spirited Letter of Mr. Madison, repelling an Anonymous Attack of Colonel Hamilton on him — His Correspondence from New York, describing the State of Political Parties — Denunciations of the President by the Advocates of a National Bank — Shameless Speculations in the Public Funds — Mr. Jefferson communicates to him Repeated and Affectionate Inquiries of the President about him — He returns to Virginia a Few Weeks before the Meeting of Congress — First Session of Second Congress — Changes in Composition of the Body by the Recent Elections — Its first Business to prepare an Act for Apportionment of Representatives according to Census lately taken — Resolution proposed by Mr. Lawrance of New York for allowing one Representative for every Thirty Thousand Inhabitants — Bill brought in according to the Resolution — Sectional and Political Considerations arrayed against it — Passes House of Representatives by a Large Majority — Amended in Senate by changing the Ratio from Thirty to Thirty-three Thousand — Amendment of Senate gives rise to Warm Debate in the House — Ratio of Thirty Thousand objected to as favorable to the Southern States, and especially to Virginia — Dignified Reply of Mr. Madison to these Objections — Bill finally lost by Disagreement of the Two Houses — A Second Bill brought in, founded on the same Ratio, but providing for an early Re-apportionment according to a New Census — This Bill also amended in the Senate, by applying the Proposed Ratio to the Aggregate Population of the Union, instead of the “Respective Numbers of the States,” according to the Language of the Constitution — Amendment, dis-

agreed to at first, finally concurred in by the House — Bill submitted to the President — His Cabinet equally divided in Opinion on the Constitutionality of the Act — He refers his Determination to the Advice of Mr. Madison, and finally disapproves the Bill — A Third Bill brought in, which received the Sanction of both Branches of the Legislature, and of the President — The Veto of the President on the Second Bill as being contrary to the Constitution, and the Arrest of another Unconstitutional Act of Congress about the Same Time, by a Decision of the Judiciary, re-animate the hopes of the Republican Party — Cheering Letters on the Occasion from Mr. Madison to Judge Pendleton and Governor Lee.

THE vacation in the sittings of Congress, this year, was the longest that had occurred since the adoption of the Constitution. It extended from the 4th of March to the 24th of October, 1791. The President determined to take advantage of it to make a tour of the Southern States, having already visited the Eastern the first year of his presidency. He left Philadelphia the 20th of March, and returned the 16th of July. Two months of that interval were devoted to an excursion through the States of Virginia, North Carolina, South Carolina, and Georgia, which, besides the relaxation it afforded, gave him great satisfaction with regard to the general condition of the country.

Mr. Madison remained in Philadelphia some time after the adjournment of Congress, and then formed the project of an excursion, in company with Mr. Jefferson, through a portion of the Eastern States, having never yet visited that part of the Confederacy. He preceded Mr. Jefferson several days as far as New York ; and while there received a letter



from him, saying, "I shall propose to you, when we tack about from the extremity of our journey [Lakes George and Champlain], to cross over through Vermont to Connecticut River, and down that to New Haven; then through Long Island to New York, and so to Philadelphia." To this Mr. Madison replied, "I do not foresee any objection to the route you propose. Health, recreation, and curiosity being my objects, I can never be out of my way."

The tourists set out from New York on the 20th of May, and returned to that city on the 16th of June, after fulfilling the precise programme of the excursion sketched by Mr. Jefferson. It had no other object than a temporary relaxation from public cares, and an enlarged acquaintance with the country, chiefly in its natural features; and in both respects yielded the anticipated gratification. In a letter to his father, of the 2d of July, from New York, Mr. Madison says, "The tour I lately made with Mr. Jefferson, of which I have given the outline to my brother, was a very agreeable one, and carried us through an interesting country, new to us both."<sup>1</sup>

It was during the sojournment of Mr. Madison in New York, that those communications took place with his early friend and college companion, Freneau, which are supposed to have contributed

<sup>1</sup> This tour, so entirely one of private gratification, has been misrepresented, by a spirit of party

malevolence, as having in view objects of political intrigue.— See Hist. Am. Rep., vol. iv. p. 506.

to the establishment of a new political journal in Philadelphia, and which Colonel Hamilton, in the exaggeration of his personal and political feelings at the time, very absurdly made the subject of serious crimination against both him and Mr. Jefferson.<sup>1</sup> An explanation of Mr. Madison's participation in the affair becomes essential, therefore, to the ends of truth and justice. The only political newspaper of general circulation then published in Philadelphia was Fenno's "United-States Gazette," which was zealously devoted to the advocacy of Colonel Hamilton's principles and measures, and was the medium through which political theories and doctrines were propagated, tending directly to a radical change in the republican institutions of the country. By those who cherished with sincerity the republican principles of the government, and honestly deprecated the tendency of Colonel Hamilton's measures, it was considered very desirable that another journal should be established at the seat of government, through which their views might be fairly presented, with those of their adversaries, to the public mind.

Mr. Madison, from his prominent connection with the political discussions of the time, was one of those to whom this view of the subject would naturally present itself; and concurring with these

<sup>1</sup> See the letter of Hamilton to Colonel Carrington, of the 20th May, 1792, in *Hist. Am. Rep.*, vol. iv. pp. 520-540; and his subsequent

anonymous publications in the "United-States Gazette," under the signatures of "American" and "Catullus."

public considerations was the desire he felt to promote the interests and usefulness of a man of rare genius and most attaching personal qualities, whom he had long known and cordially esteemed, and who for some time past had been professionally connected with the press of a neighboring city. He had already recommended Freneau to Mr. Jefferson for the occasional service of translating the French language in the department of State, for which he was peculiarly qualified by his French extraction and education. The salary attached to the appointment being a very inconsiderable sum (two hundred and fifty dollars only), rendered it necessary to confer it on some one engaged in other pursuits as his principal means of support.

Mr. Jefferson having expressed a willingness to offer the appointment to Freneau, Mr. Madison, on his arrival in New York, had an interview with the latter; the result of which, after correcting a misapprehension as to the nature of the duties to be performed, was communicated to Mr. Jefferson in a letter of the 1st of May, 1791. "Being now set right as to this particular, and being made sensible of the advantages of Philadelphia over New Jersey (where he had proposed to set up a newspaper) for his private undertaking, his mind is taking another turn; and, if the scantiness of his capital should not be a bar, I think he will establish himself in the former. At all events, he will give his friends there an opportunity of aiding his decision by their information and counsel. The



more I learn of his character, talents, and principles, the more I should regret his burying himself in the obscurity he had chosen in New Jersey. It is certain that there is not to be found, in the whole catalogue of American printers, a single name that can approach towards a rivalryship."

Some new difficulties supervening after this conversation with Mr. Madison, Freneau had relinquished the design of going to Philadelphia and establishing a newspaper there, when Colonel Henry Lee of Virginia, who, like Mr. Madison, had been an intimate college friend of Freneau, being then on a visit to the North, and concurring warmly in the expediency of the proposed journal, as well as in the desire to advance the fortunes of his friend, finally induced him to engage in the undertaking.<sup>1</sup>

This is the simple history of Mr. Madison's connection with the origin of Freneau's paper, which, natural and honorable as it was, Colonel Hamilton magnified into an atrocious plot by him and Mr. Jefferson against the government itself, and put into requisition all his means of *secret* information

<sup>1</sup> See Mr. Trist's memorandum of a conversation of Mr. Madison, cited in Randall's Life of Jefferson, vol. II. p. 74.

The correspondence of Colonel Lee with Mr. Madison affords many evidences of the lively interest he took in Freneau's paper. In a letter of the 8th December, 1791, to Mr. Madison, he says, "The inclosed please to hand to our friend Freneau. It contains a list

of some subscribers to his Gazette." In another letter of the 6th February, 1792, he says, "The No. of 'Freneau's Gazette' you mention has not reached me; nor indeed have I, for two mails, got any papers from him. This precariousness in the reception of his paper will cramp its circulation, for which I am exceedingly sorry, as it is rising fast into reputation."

to obtain the particulars of, — with the *details of time and place*;<sup>1</sup> when he could have had from the parties themselves, without the slightest difficulty or reluctance on their part, a plain, unvarnished statement of the whole transaction.

Freneau established his paper in Philadelphia in the autumn of 1791, under the title of the “National Gazette,” the first number of which appeared on the 31st October of that year; and it continued to be published there, with much reputation and ability, for the space of two years. While serving as a vehicle of various and useful information to the public, it examined with freedom and independence the measures of the secretary of the treasury, and the principles and policy of the party which followed his lead; and, although published in times of high party excitement, it rarely if ever indulged in a license of animadversion on its political opponents comparable to that, of which Colonel Hamilton himself set the example, in anonymous, but thinly disguised, communications of his own to the rival Gazette.<sup>2</sup> Mr. Jefferson never wrote an article

<sup>1</sup> See Colonel Hamilton's letter to Mr. Boudinot of New Jersey, of 13th August, 1792, asking him to obtain “the particulars of all the steps taken by *Mr. Madison, the when and where, &c.*,” in Hamilton's Works, vol. v. p. 519. A similar call was made on Mr. Dayton of New Jersey. — See Mr. Dayton's reply, *idem*, pp. 521, 522.

<sup>2</sup> See the series of bitter and violent articles communicated to

“Fenno's Gazette,” in the summer and autumn of 1792, under the assumed names of “American” and “Catullus.” These articles were known at the time to be the productions of Colonel Hamilton, and are now republished as such in his Works, vol. vii. pp. 5–75.

When the charges contained in those anonymous publications against Mr. Madison, relative to the origin of Freneau's paper, first fell

of any kind for the paper; and the few articles contributed to it by Mr. Madison were of an abstract and speculative character, and scrupulously avoided all party recrimination.

We have already had occasion to allude to the sentiments of extreme dissatisfaction and impa-

under his eye, he was in Virginia; and, in a letter to Mr. Edmund Randolph, of the 13th of August, 1792, he referred to them in the following terms of manly frankness, not unminged with a just and natural indignation:—

“That I wished and recommended Mr. Freneau to be appointed to his present clerkship, is certain. But the department of State was not the only, nor as I recollect the first, one to which I mentioned his name and character. I was governed in these recommendations by an acquaintance of long standing, by a respect for his talents, and by a knowledge of his merit and sufferings in the cause of the Revolution. Had I been less abstemious, in my practice, from solicitations in behalf of my friends, I should probably have been more early in thinking of him.

“That, with others of his particular acquaintances, I wished and advised him to establish a press at Philadelphia, instead of one meditated by him in New Jersey, is also certain. I advised the change, because I thought his interest would be advanced by it; and because, as a friend, I was desirous that his interest should be advanced. This was my primary and governing motive. That, as a

consequential one, I entertained hopes that a *free* paper, meant for general circulation, and edited by a man of genius, of republican principles, and a friend to the Constitution, would be an antidote to the doctrines and discourses circulated in favor of monarchy and aristocracy, and would be an acceptable vehicle of public information in many places not sufficiently supplied with it,—this also is a certain truth. But it is a truth which I never could be tempted to conceal, or wish to be concealed. If there be a temptation in the case, it would be to make a merit of it.

“But that the establishment of Freneau’s press was wished in order to sap the Constitution; and that I forwarded the measure, or that my agency negotiated it, by an illicit or improper connection between the functions of a translating clerk in a public office and those of an editor of a Gazette,—these are charges which ought to be as impotent as they are malicious. The first is surely incredible, if any charge could be so. And the second is, I hope, at least improbable, and not to be credited, until unequivocal proof shall be substituted for anonymous and virulent assertion.”



tience which the President's hesitation, with regard to the approval of the Bank Bill, excited among the partisans of that measure. Mr. Madison learned in New York, that the manifestations of those feelings towards the President in that city had been particularly violent, and knew no limits of decency or respect. In his letter to Mr. Jefferson, of the 1st of May, from which we have just given an extract, he says:—

“We understood in Philadelphia, that, during the suspension of the Bank Bill in the hands of the President, its partisans here indulged themselves in reflections not very decent. I have reason to believe that the licentiousness of the tongues of speculators and tories far exceeded any thing that was conceived. The meanest *motives* were charged upon him; and the most insolent menaces held over him, if not in the open streets, under circumstances not less marking the character of the party.”

It is known from other sources, that one of the *motives* invented for the President's doubts of the constitutionality of the bank was his imputed apprehension, that, if the bill became a law, the establishment of so important an institution in Philadelphia would prove a bar to the ultimate removal of the seat of government from that place to the banks of the Potomac,—a measure in which the President was supposed to take a very lively interest. Even Mr. Ames, under the arrogant and illiberal feeling of the times, did not scruple to point

suspicion against the President's motives, in the following passage of his correspondence, written while the Bank Bill was still in the hands of the President, and its fate supposed to be trembling in the balance: "This apprehension has an influence upon Mr. Madison, the secretary of State, as it is supposed; and *perhaps upon a still greater man.*"<sup>1</sup>

It is a most remarkable, and but for the official record would be an incredible, fact, that, while the Bank Bill was suspended in the hands of the President, a majority of the Senate of the United States, by a solemn and recorded vote, postponed the consideration of a measure, which the President had recommended, respecting the final location of the Federal district on the banks of the Potomac, till the very day when, under the limitations of the Constitution, he would be compelled to send in his decision one way or the other on the Bank Bill.<sup>2</sup> This proceeding admits of no other interpretation than that of an indecent, however impotent, menace addressed by the friends of the bank in the Senate, to the supposed interest of the President in a measure, which they held back as a hostage for the bill in his hands.

Mr. Madison, being detained by indisposition in New York for several weeks after his return from his eastern excursion with Mr. Jefferson, was there when the subscriptions to the Bank of the United

<sup>1</sup> See his letter to George Richards Minot, of 17th February, 1791, in *Life and Works of Fisher Ames*, vol. i. pp. 75, 76.

<sup>2</sup> See *Annals of Congress*, First Congress, pp. 1801, 1802, and 1812, 1813.

States commenced, and was witness of some of those scenes of eager, pecuniary speculation, mingled with political intrigue and corruption, which that teeming measure gave birth to. As these form a monitory and instructive part of the history of the times, we propose to give a few extracts from Mr. Madison's correspondence with Mr. Jefferson, then returned to Philadelphia, in which the former, in the free and unreserved language of an honest and indignant disgust at the scenes passing around him, recorded from time to time the results of his observations.

On the 10th of July he writes: "The bank shares have risen as much in the market here as at Philadelphia. It seems admitted on all hands, now, that the plan of the institution gives a moral certainty of gain to the subscribers, with scarce a physical possibility of loss. The subscriptions are, consequently, a mere scramble for so much public plunder, which will be engrossed by those already loaded with the spoils of individuals. The event shows what would have been the operation of the plan, if, as originally proposed, subscriptions had been limited to the first of April, and to the favorite species of stock which the bank-jobbers had monopolized.

"It pretty clearly appears, also, in what proportions the public debt lies in the country; what sort of hands hold it; and by whom the people of the United States are to be governed. Of all the shameful circumstances of this business, it is among the



greatest to see the members of the legislature, who were most active in pushing this job, openly grasping its emoluments. Schuyler is to be put at the head of the directors, if the weight of the New-York subscribers can effect it. In fact, stock-jobbing drowns every other subject. The coffee-house is in an eternal buzz with the gamblers."

In a letter written three days later, — the 13th of July, — he mentions a *rumor*, that a large number of subscriptions in New York, Boston, and Baltimore had been excluded by means charged to the manœuvres of Philadelphia, who was said to have secured a majority of the whole to herself. "The disappointed individuals," he says, "are clamorous, of course; and the language of the place marks a general indignation on the subject. If it should turn out that the cards were packed for the purpose of securing the game to Philadelphia, or even that more than half of the institution, and of course the whole direction of it, have fallen into the hands of that city, some, who have been loudest in their plaudits whilst they expected to share in the plunder, will be equally so in sounding the injustice of monopoly and the danger of undue influence on the government."

On the 8th of August, he writes that speculations had recently been turned to the *deferred* debt, in consequence of intimations that a provision would be proposed for it at the next session of Congress; and mentions that packet-boats and expresses are again sent from this place to the Southern States,

to buy up paper of all sorts that had risen in the market here." He then adds: —

"It seems agreed on all hands, now, that the bank is a certain and gratuitous augmentation of the capitals subscribed, in the proportion of not less than forty or fifty per cent; and if the deferred debt should be immediately provided for, in favor of the purchasers of it in the deferred shape, and since the unanimous vote that no change should be made in the funding-system, my imagination will not attempt to set bounds to the daring depravity of the times. The stock-jobbers will become the pretorian bands of the government, at once its tool and its tyrant, bribed by its largesses, and overawing it by clamors and combinations."

While Mr. Madison continued to be still detained in New York by indisposition, Mr. Jefferson wrote to him frequently from Philadelphia, giving him the details of foreign intelligence received at the State department, and inquiring with anxiety about the state of his health. In a letter of the 18th of August, he mentions particularly the repeated and affectionate inquiries of the President. "All your acquaintances," he said, "are perpetually asking if you are arrived. It has been the first question from the President every time I have seen him this fortnight. If you had arrived before dinner to-day, I had a strong charge to carry you there. Come on, then, and make us all happy."

A few days after the date of this letter, Mr. Madison arrived in Philadelphia; and, spending a

week or ten days there, he set out with Mr. Jefferson for Virginia, on the first day of September. He was not permitted by his public duties to remain at home more than a few weeks. He returned, as he had come, in company with Mr. Jefferson. Passing a day at Mount Vernon, where the President then was on a brief respite from his official cares, they reached Philadelphia on the 22d of October, only two days before the meeting of Congress. Writing to his father on the 30th of October, he says, "We arrived here yesterday morning was a week; having been obliged to push through the bad weather by the discovery, first made at Mount Vernon, that the meeting of Congress [fixed for the fourth Monday of October] was a week earlier than was calculated at our setting out. The President had been under the same mistake, and had but just been apprised of it."

Each House of Congress formed a quorum on the day appointed for their meeting; and on the following day the President's speech was delivered. Mr. Madison, as on former occasions, was made chairman of the committee to report the address, which was unanimously adopted in the form reported by him. The new elections, which had taken place, had made but little change in the composition of either branch of the legislature;<sup>1</sup>

<sup>1</sup> Among the changes made by the recent elections, a very noticeable one in the Senate was the choice of Colonel Burr, to the exclusion of General Schuyler, as a

senator from New York; and of Mr. Cabot in the place of Mr. Dalton, as senator from Massachusetts. In the House of Representatives, among the new members were



and the total number of representatives remained unchanged from what it was under the temporary arrangement, agreed upon at the adoption of the Constitution, with the exception only of the addition of two members from each of the new States of Vermont and Kentucky. But the enumeration of inhabitants, provided for by the Constitution, being now completed and laid by the President before Congress, one of the first duties that devolved upon it was to pass an act for the re-adjustment of the representation in the next Congress, according to the data which that census furnished.

The subject was introduced by a resolution, offered by Mr. Lawrance of New York, on the 31st of October, declaring that, "until the next enumeration, the number of representatives shall be one to every thirty thousand" of the Federal numbers. This was the ratio of representation which we have seen was, on the motion of General Washington in the convention, *unanimously* inserted in the Constitution, instead of forty thousand, as the limit beyond which the number of representatives was never to be extended. We have also seen, that, among the amendments of the Constitution, recommended by the late Congress to the States, was one providing affirmatively, that "there *shall* be one representative for every thirty thousand," until a certain aggregate number of representatives be

Mr. Hillhouse of Connecticut, Mr. Dayton of New Jersey, Colonel Mercer and Mr. Murray of Mary-

land, Mr. Venable of Virginia, Mr. Macon of North Carolina, and Mr. Barnwell of South Carolina.

reached. This amendment had been already agreed to by eight of the States, forming a considerable majority of the whole, though falling short of the three-fourths requisite to make it technically a part of the Constitution. It was a ratio, then, which had received the authentic sanction of public opinion in multiplied forms, as that which should constitute the basis of representation in the outset of the government, until the progressive increase of population should render a resort to a higher ratio necessary, to prevent an inconvenient enlargement of the representative body.

The resolution was debated for several days; and a higher ratio was proposed and advocated, mainly by those whose political principles inclined them to habitual jealousy of the popular branch of the government. Mr. Lawrance's proposition, however, was finally adopted by a majority of thirty-five to twenty-three, and a committee appointed to bring in a bill in pursuance of it.

The duty of the committee was a very plain one, according to the interpretation of the Constitution which had, down to that time, universally prevailed. It was simply to apply the ratio agreed upon by the House to "the respective numbers of the States" (this being the language of the Constitution), and then to allot to each State a number of representatives corresponding with the quotient yielded in each case. This was done; and a bill reported, allowing to New Hampshire, according to the prescribed ratio, four members; Massachusetts,

fifteen; Connecticut, seven; Rhode Island, two; Vermont, two; New York, eleven; New Jersey, five; Pennsylvania, fourteen; Delaware, one; Maryland, nine; Virginia, twenty-one; North Carolina, eleven; Georgia, two; and South Carolina, whose census had not yet been received, the number (probably six) resulting from the same ratio to be applied to her census, when received,—making in all an aggregate of one hundred and twelve representatives.

The bill was taken up for consideration on the 21st of November, and was under discussion for several days. The leading objection urged against it in debate was, that it rendered the House of Representatives too numerous a body; which, by the weight of its numbers, would become an overmatch for the Senate, and endanger the influence of that branch, with the rights and interests of the smaller States. Mr. Dayton, of New Jersey, was the chief exponent of these opinions, and in the course of his remarks made an open and inflammatory appeal to the Senate to reject the bill, if it should pass the House.

“Let thirty thousand,” he said, “be adopted as the ratio of representation, and he hesitated not to declare, that, whenever the representatives should think proper to resolve any important point of dispute into a question of firmness between the two Houses, the Senate must yield to their superior weight, and shrink from the unequal contest. . . . That body, he was sure, was too mindful of their



own privileges and importance to make a voluntary and deliberate surrender of their independence. They were too regardful of the interests of their constituents to assent to an act giving an undue weight to that branch of the legislature in which the great States had such unreasonable influence."

It was soon apparent, however, and yet more clearly revealed in the sequel, that there were local and political considerations actuating the opposition to the bill, of far more power than the relative weight of the large and small States; for Massachusetts, one of the largest of the States, was, by a great majority of her representatives, the determined adversary of the bill, and was sustained in her opposition by the general feeling of New England. One of the Massachusetts representatives, Mr. Sedgwick, proposed to amend the bill, by changing the ratio of representation from thirty thousand to thirty-four thousand; and the motion was supported by nearly the whole of his colleagues, as well as the New-England delegation generally.<sup>1</sup> Its signal defeat, by a vote of thirty-eight to twenty-one, discouraged further opposition to the bill. On the following day, it passed the House of Representatives by the imposing vote of forty-three to twelve.

The bill now came before the Senate; and in that body various schemes of apportionment, some of which it is, at this distance of time, difficult

<sup>1</sup> Mr. Gerry was a striking and honorable exception from Massachusetts.

to resolve into any semblance of principle, were brought forward and successively rejected. At length, an amendment, substituting thirty-three thousand for thirty thousand, as the ratio of representation, and making an apportionment on that basis, which gave an aggregate number of one hundred and five representatives instead of one hundred and twelve, as proposed by the bill from the House, was carried by the casting vote of the Vice-President. Of the seven members thus retrenched by the Senate's amendment, two only were lost by the States north of the Delaware, and five by the States south.

The amendment of the Senate was debated in the House for three days, and was disagreed to, on the 14th of December, by a vote of thirty-seven to twenty-three. The Senate then *insisted* on its amendment; and the House, on the 19th of December, finally determined, by a vote of thirty-two to twenty-seven, to *adhere* to its disagreement. And so this first effort to adjust the subject of representation entirely failed.

In the course of the debate in the House on the Senate's amendment, it was alleged, as the principal reason for changing the ratio of representation from thirty to thirty-three thousand, that the former left larger fractions unrepresented than the latter, and that those fractions fell mainly to the side of the smaller States and of the Northern States. If such were the case, the answer was obvious and conclusive, that the smaller States had an ample com-

pensation for any temporary disadvantage of this kind in their co-equal representation with the larger States in the Senate ; that the fractions falling more on the north than the south, in the proposed apportionment, was purely accidental, as well as temporary ; that in the existing arrangement, which would continue four years from its commencement, the Northern States had been allowed a larger representation than their relative numbers entitled them to ; that no apportionment could be devised which would not leave unrepresented fractions ; that these fractions, shifting in successive apportionments from one side to the other, would in the end redress and balance each other ; and that a just and elevated statesmanship demanded that the fittest ratio of representation, on general principles, should be chosen and applied, without reference to the accidental and temporary *local* incidence of fractions, wheresoever they should fall.

The debate, on the part of the opposition to the original bill, was extremely *sectional* in its tone and character, and teemed with invidious allusions. It so happened, that, under the ratio of thirty thousand, the unrepresented fraction of Virginia was comparatively small. This was the legitimate, mathematical result of a principle adopted by the House upon its intrinsic merits, without the slightest reference to the case of Virginia ; for the proposition was brought forward by a gentleman of New York, and sustained by many other members, who



had shown any thing rather than an undue sympathy with the interests or opinions of Virginia.

That Virginia was entitled, under the principle adopted by the House, to the number of representatives allotted to her by the bill, could not be denied. And yet, in the course of the debate, some of the opponents of the bill, arbitrarily assuming other premises, in contempt of the separate and distinct organization of the States, on which the whole Constitution stands, recklessly asserted that Virginia had been allowed by the bill two more representatives than she was entitled to. And on this assertion incessant changes were rung, to stimulate and inflame the jealousies of the other States, particularly of the North; Mr. Ames of Massachusetts,<sup>1</sup> and Mr. Dayton of New Jersey, having especially distinguished themselves by their zeal and extravagance in this invidious line of debate. Mr. Madison, who had hitherto taken but little part in the discussion of the bill, was roused to appeal from so illiberal and unstatesmanlike a pro-

<sup>1</sup> Mr. Ames himself may be allowed to describe the temper in which he and his colleagues opposed the bill. In a letter to his friend Minot of 23d December, 1791, written four days after the debate referred to in the text, and alluding to an excess of two members, which, according to his assumed but unfounded premises, he alleges to have been allowed to Virginia beyond her just proportion, he says, —

“Though my former letters have expressed indifference to the debate on the ratio of representation, yet, at last, the violent injustice of the Bill became so manifest as to *overcome all my moderation*. . . . What did we Yankees do but mount the high horse, and scold in heroics against the *disfranchisement* of the other States.” — See *Life and Works of Fisher Ames*, vol. i. p. 108.

cedure, to the sober judgment and better feelings of the House.

“He was sorry,” he said, “that it almost always happened, whenever any question of general policy and advantage to the Union was before the House, when gentlemen found themselves at a loss for general arguments, they commonly resorted to *local* views. And at all times, as well as the present, when there was most occasion for members to act with the utmost coolness, — when their judgments ought to be the least biassed, — it was to be regretted that, at those times, they suffered their feelings, passions, and prejudices to govern their reason. Thus it is that the most important points are embarrassed, the Northern and Southern interests are held up, and every idea of liberality and candor is banished.

“The gentleman from New York (Mr. Lawrence), when he introduced this subject at the commencement of the present session, did it on the most generous plan, and disavowed every principle of calculation so entirely that he then declared he had not so much as made a single calculation of the different fractions, which have been since introduced into the debate: his only object was to fix a rule on *general principles*, agreeably to the Constitution and to the preservation of the rights of the people. And this idea was approved by two of the gentlemen from New Jersey, who have since altered their opinions, although they then had no objections but as to the expense.

“The idea of fractions was not then contended for, but has since become the very essence of the opposition; and we are called upon to violate the Constitution by adopting a measure that will give representatives for those separate and distinct fractions in the respective States. And afterwards we are told it is not to the fractional numbers in the States that they refer, but to the aggregate of the fractions in the United States. If this reasoning is good, why do gentlemen stop at the boundary of a representation by States? Why not proceed to erect the whole of the United States into one district, without any division, in order to prevent the inequality they conceive to exist in relation to individual States?”<sup>1</sup>

The loss of the bill, by the disagreement between the two Houses and the illiberal spirit manifested by the opposition to it, left such impressions of disgust on the minds of many members, that a considerable time elapsed before the subject was renewed. At length, on the 24th day of January, 1792, a proposition was made and carried in the House, that a new bill should be reported on the plan of the first; but to meet the objection which had been urged against that bill, respecting the falling of the unrepresented fractions more on a certain class of States than others, the new bill was to provide for an early re-apportionment of representatives according to a new census which should be taken in the

<sup>1</sup> See *Annals of Congress*, Second Congress, 1791–1793, pp. 264, 265.



course of four years, instead of being postponed for ten.<sup>1</sup>

After much discussion, the bill reported in pursuance of this proposition passed the House on the 21st of February, 1792, by a vote of thirty-four to sixteen. It was under discussion in the Senate from that day to the 12th of March, when an amendment was carried, founded on the heterodox notion of disregarding the separate organization and individuality of the States, and applying the ratio of representation, not to "their respective numbers," but to the aggregate population of the Union. This process produced a total number of one hundred and twenty representatives, which, after being distributed among the States as far as the uniform ratio of thirty thousand, applied to their respective numbers, could effect it, left a residue of eight members, that were then allotted to eight of the States by other and widely differing ratios, all of which were below the minimum fixed by the Constitution, if considered with reference to the respective num-

<sup>1</sup> Mr. Madison, a few days before the adoption of this resolution, that is, on the 21st of January, 1792, wrote to Judge Pendleton as follows:—

"The motion alluded to proposes, as compensation for the *present* irregularity of fractions, a repetition of the census in four or five years, which will have not only the effect of shortening the term of the fractions complained of, but of preventing the accumulation of much greater inequalities within a period

of ten years. This expedient is relished generally by the Southern States, and by New York and Vermont, which are growing States. It will be equally unpalatable to Massachusetts, Connecticut, &c., which are willing to take the benefit of the *future* operation of an apportionment for ten years, although they raise so great an outcry against the little fractional advantage accruing to other States from the ratio of one for thirty thousand."

bers of the States. Of these eight residuary members, two only were allotted to States south of the Chesapeake: the other six were allotted to States north of it.

This project had, on a former occasion, been rejected in the Senate by a vote of fifteen to nine;<sup>1</sup> and was now carried by the close vote of fourteen to thirteen. In eager pursuit of sectional advantage, it lost sight, not only of the principles of the Constitution, but of the objections which its advocates had formerly urged with great zeal against the bill of the House of Representatives as producing too numerous an assembly, though the number of members proposed by that bill was eight less than now resulted from their own measure. The amendment of the Senate, at first disagreed to by the House, was finally, on the 23d of March, concurred in by a vote of thirty-one to twenty-nine; and the bill, so amended, came before the President for his approval.

On the 25th of March, Mr. Madison wrote to his friend Judge Pendleton, "The bill passed on Friday last in the form in which it was sent from the Senate, that is, with the distribution of one hundred and twenty members among the States, and the provision for a second census expunged. It was carried in the Senate by a majority of one, and in the House of Representatives by a majority of two only. It now remains with the President.

<sup>1</sup> See Proceedings of Senate on of Congress (Second Congress, the 7th December, 1791, in Annals 1791-1793), pp. 42, 43.

The history of this subject involves many unpleasant circumstances ; and the result appears to me absolutely irreconcilable with the Constitution."

The mind of the President was naturally much embarrassed by the question presented for his decision. He had, as we have seen, adopted it as a rule that the President ought not to negative the determinations of the legislature, unless in cases where those determinations were *clearly* wrong. In the present instance, his cabinet officers, whom he consulted with regard to the constitutionality of the act, were equally divided in opinion, — the secretary of State and the attorney-general maintaining its unconstitutionality ; the secretary of the treasury and the secretary of war, the contrary. It was a case, also, in which the votes in the legislature were divided by an almost exact geographical line, — all the Southern members, without exception, having voted against the bill ; and the Northern members, with but few exceptions, in favor of it. In his exalted position, the President felt the delicacy of a decision which would expose him to the suspicion of being actuated by an undue bias in favor of his own section of the Union.

Under these circumstances, we are informed by a contemporary memorial of the transaction, that he recurred to the judgment and advice of Mr. Madison, upon whose concurrence or non-concurrence in the opinions of the attorney-general and the secretary of State he was willing to make his own



decision depend.<sup>1</sup> No higher proof of confidence, or from a higher source, could have been bestowed. The President's own convictions being thus fortified, he returned the bill with his negative ; and, in arresting an unconstitutional act, he rebuked, if unfortunately he failed to cure, the narrow, sectional spirit in which it had been engendered.

In a letter written by Mr. Madison to Judge Pendleton on the 9th of April, — three days after the presidential veto, — he thus alludes to the subject : —

“ You will find, by the inclosed papers, that the President's negative has saved us from the unconstitutional allotment of representatives proposed by the bill on that subject. The contest is now to be between a ratio of one for thirty thousand and one for thirty-three thousand. I think it most likely to end in the latter, this being most favorable to the northern part of the Union, — the circumstance which produced the curious project contained in the late bill.”

Mr. Madison's anticipation was verified. The bill which was introduced, and finally became a law, adopted the ratio of thirty-three thousand as most favorable to the North ; though, in the ap-

<sup>1</sup> See the memorandum of Mr. Jefferson, made at the time, and now found in his Writings, vol. iv. pp. 466, 467.

The recurrence to Mr. Madison's advice on this occasion, by Washington, recalls the similar compliment paid by William the

Third to Sir William Temple, in sending to obtain his advice on the Triennial Bill : but with this marked difference, that, in the case of Temple, the advice given was not followed ; in that of Madison, it was cordially accepted and acted upon.

plication of that ratio, it was forced to conform to the constitutional principles laid down in the veto.

The friends of republican liberty had long wished for the assertion of some salutary power of peaceable protection, provided by the Constitution, against the encroachments of an unbridled majority. The exercise of the President's negative on this occasion gave great satisfaction, therefore, to a large portion of the American people. Nor did it stand alone. About the same time, the judges of the supreme court refused to execute an act of Congress recently passed, on the express ground of its being contrary to the Constitution.<sup>1</sup>

These two events were naturally associated, by Mr. Madison, as subjects of gratulation in a letter of the 15th of April, 1792, to Colonel Henry Lee, then governor of Virginia, in which he says, "You already know that the President has exerted his power of checking the unconstitutional career of Congress. The judges have also called the attention of the public to legislative fallibility, by pronouncing a law, providing for invalid pensioners, unconstitutional and void." In the midst of the unequal struggle which the republican party was then waging to maintain the limitations of the Constitution against a bold and imperious majority, these manifestations of a twofold, corrective power, provided by the Constitution, animated their cour-

<sup>1</sup> See Haburn's case in 2d Dallas's Reports, and also Annals of Congress (Second Congress, 1791-1793), pp. 556, 557, and 572, 573.

age and perseverance with new, though perhaps yet distant, hopes of ultimate success.<sup>1</sup>

<sup>1</sup> How differently the action of the judges, as well as that of the President, was looked upon by the adverse party, is significantly shown by the following extract of a letter of Fisher Ames to his correspondent, Mr. Dwight, of the 25th of April, 1792:—

“The decision of the judges on the validity of our pension law is generally censured as indiscreet and erroneous. At best, our busi-

ness is up-hill; and, with the aid of our law-courts, the authority of Congress is barely adequate to keep the machine moving. But, when they condemn the law as invalid, they embolden the States and their courts to make many claims of power, which otherwise they would not have thought of.”—See *Life and Works of F. Ames*, vol. II. p. 117.



## CHAPTER XLIV.

Continuation of First Session of Second Congress — Propositions tending to augment the Power of the Executive Department at the Expense of the Legislative — Opposed by Mr. Madison — Disagreement of the Two Houses respecting a Proposition to stamp the Head of the President, *for the time being*, on the Coins of the United States — History of it given by Mr. Madison — Bill declaring what Officer shall perform the Duties of President, in case of Vacancy both in Office of President and Vice-President — Personal and Political Considerations which influenced the Decision of the Question — Avowals of Colonel Hamilton and Mr. Ames — Mr. Madison's Objections to the Arrangement adopted — Act for raising Additional Troops for Defence of Western Frontier against Indian Hostilities — Call on the Secretary of the Treasury for "his *Opinion* of the *Best Mode* of Raising the Additional Supplies" rendered necessary by this Measure — Discussion on the Propriety, in a Constitutional View, of such Legislative References to the Secretary — Argument of Mr. Madison against the Practice — Unbecoming and Mischievous Extent to which it was carried — Report of the Secretary of the Treasury on the Encouragement of Manufactures — He recommends *Bounties*; and lays down the Sweeping Doctrine, that whatever, in the Opinion of Congress, may promote the *General Welfare*, is within the Scope of its Powers, so far as regards an Application of Money — Mr. Madison, in a Debate on the Cod Fisheries, animadverts on the Latitude of this Doctrine as inconsistent with the Fundamental Principles of the Government, and moves to strike out the Term *Bounty* from the Bill then before the House — His Motion is adopted.

ALTHOUGH the Representation Bill, in its successive transformations and the long conflict of geo-

graphical and political interests which attended it, occupied a large portion of the present session of Congress, it did not do so to the total exclusion of other subjects of general importance. Some necessary arrangements yet remained to be made for completing the organization of the government under the new Constitution. Of this character was the framing of a law for the organization of the post-office department, the establishment of post-roads, and the regulation in general of the postal service of the United States.

In the progress of this measure through the House of Representatives, a proposition was made by Mr. Sedgwick of Massachusetts, that Congress, renouncing practically its constitutional power and duty of establishing post-roads, should leave their designation wholly to the discretion of the President. The proposition was the offspring of a prevailing disposition, in a numerous party in Congress at that day, to augment, in every possible way, the power and influence of the executive department, at the expense of the popular and representative branch of the government. It was resisted by Mr. Madison and other members of the republican party, as a departure from both the letter and spirit of the Constitution, and was finally rejected by a decisive vote.<sup>1</sup>

<sup>1</sup> In the course of the debate, Mr. Madison said, "Where is the necessity of departing from the principles of the Constitution, in respect of post-offices and post-

roads, more than in all other cases? The subject is expressly committed to legislative determination by the Constitution. . . . He concluded by saying there did not appear to

Another circumstance of less importance intrinsically, but revealing also the respective political biases of the two parties, occurred at a later period of the session. In the bill for the establishment of a mint, which came down from the Senate, there was a provision, that a representation of the head of the President *for the time being*, with his name and the numerical order of his succession to the presidency, should be stamped upon each of the gold and silver coins of the United States. This was considered by many members of the House as an unfitting imitation of monarchical usages; and a motion to amend the bill by striking out the proposed image of the President for the time being, and substituting an emblematic figure of Liberty, was carried by a considerable majority. The amendment of the House was promptly and emphatically disagreed to in the Senate; and the bill, with the disagreement of the Senate to the proposed amendment, immediately returned to the House. The latter, with equal spirit and determination, *adhered* to its amendment; and the Senate, deeming discretion the better part of valor, receded from its disagreement, and passed the bill with the amendment of the House.

The progress and *denouement* of this under-plot, not destitute of political significancy, are thus re-

be any necessity for alienating the powers of the House; and, if this should take place, it would be plainly a violation of the Constitu-

tion." — Annals of Congress (Second Congress, 1791-1793), pp. 238, 239.



lated by Mr. Madison, in a letter of the 28th of March, 1792, to Governor Lee, of Virginia : —

“ In the course of the bill, a small circumstance happened, worthy of notice as an index of political biases. The Senate had proposed in the bill, that on one side of the coin should be stamped the head of the President for the time being. This was attacked in the House of Representatives as a feature of monarchy ; and an amendment agreed to, substituting an emblematic figure of Liberty. On the return of the bill to the Senate, the amendment was instantly disagreed to, and the bill sent back to the House. The question was viewed, on account of the rapidity and decision of the Senate, as more serious than at first. It was agitated with some fervor, and the first vote of the House confirmed by a larger majority. The Senate perceiving the temper of the House, and afraid of losing the bill, as well as unwilling to appeal in such a controversy to the public criticism, departed from their habitual perseverance, and acceded to the alteration proposed.”

A bill for regulating the election of President and Vice-President of the United States was brought forward at an early period of the session. It originated in the Senate, and contained a provision declaring on whom the powers of President should devolve in case of a vacancy in the offices both of President and Vice-President. The Constitution had not provided definitively for so remote a contingency, but, instead of doing so, left it to Congress “ to provide by law for the case of removal, death,

resignation, or inability both of the President and Vice-President, declaring what officer shall then act as President; and such officer shall act accordingly, until the disability be removed, or a President shall be elected."

This subject had been under the consideration of the House of Representatives at its last session, when Mr. Smith, of South Carolina, considering the secretary of State *for the time being* as the functionary on whom the duties of President would most naturally devolve in the contingency referred to, proposed a legislative declaration to that effect. The chief-justice, the secretary of the treasury, the president *pro tempore* of the Senate, and the speaker of the House of Representatives, were all successively suggested, in the course of the debate, for this eventual but most improbable succession. In consequence of the great diversity of opinion manifested, not unmixed with the party feelings of the day, the subject was postponed for the future action of Congress.

In the bill, which now came down from the Senate, it was provided, that, in the contemplated contingency, "the president of the Senate *pro tempore*, and in case there shall be no president of the Senate, then the speaker of the House of Representatives, shall act as President of the United States, until the disability be removed or a President shall be elected." This provision was objected to in the House, on the ground that neither the president of the Senate nor the speaker of the House of Repre-

sentatives were *officers* in the general sense intended by the Constitution; or, if they were, that the proposed devolution of the Presidency upon either of them would be an improper blending of legislative and executive functions. At length, after keeping the subject under consideration for several weeks, the provision in the Senate Bill was, on the tenth day of February, 1792, stricken out by a vote of the House; and the secretary of State *for the time being* inserted in the place of the president of the Senate and the speaker of the House of Representatives. The amendment was disagreed to by the Senate; and some of its friends in the House, not considering the question of sufficient practical importance to justify a protracted and heated controversy, gave way, and the bill was passed in the form in which it came from the Senate.

That this decision proceeded mainly, if not exclusively, from feelings of personal and political enmity to the gentleman who then filled the office of secretary of State, and the jealousy entertained of him by the friends and partisans of the secretary of the treasury, is rendered apparent by the surviving memorials of the time. Colonel Hamilton himself, in a letter to a friend of his, of nearly contemporaneous date with the transaction, acknowledged that he used his influence, from motives of personal and political opposition to Mr. Jefferson, to defeat the amendment of the House.<sup>1</sup> And Mr. Fisher

<sup>1</sup> See his letter to Colonel Carrington of 20th May, 1792, in *Hist. Am Rep.*, vol. iv. p. 536.



Ames, in a letter written three days after the event, exultingly ascribes the action of the Senate to a firm determination to bar him out. "The secretary of State," he says, "is struck out of the bill for the future Presidency, in case of the two first offices becoming vacant. . . . The firmness of the Senate kept him out." <sup>1</sup>

<sup>1</sup> Life and Works of Fisher Ames, vol. I. p. 114.

One is puzzled, at first, to know why such a persevering opposition was made to the designation of the secretary of State for an eventual succession, which, from the extreme improbability of the double contingency on which it depended, no one believed would ever be cast upon him. It was asserted in the debate, that, according to the doctrine of chances, it was an even chance that such a contingency would not happen more than once in eight hundred and forty years; and, in point of fact, it has never yet happened since the foundation of the Constitution. The great zeal shown to prevent the secretary of State being declared in the line of succession to so remote and shadowy an inheritance, arose from its connection with another question of present interest and feeling. It was the pretension of the secretary of the treasury and his friends, that, in analogy to the position of the first lord of the treasury in the English cabinet, *he* ought to be considered prime minister and head of the cabinet here. A legislative declaration that the secretary of State should succeed to the Presidency in the event of a double

vacancy in the offices of both President and Vice-President, however improbable the actual occurrence of such a contingency, would, it was thought, operate as a negative to this pretension.

The pretension itself had as little to support it in English precedent as in American law; for the duties of secretary of the treasury here correspond specifically to those of the chancellor of the exchequer in England, who has never been considered as standing in the scale of official precedence above a secretary of State. On the contrary, the secretary of State there, by an established and well-understood rule of priority, holds an official rank superior to that of the chancellor of the exchequer. A remark of Mr. Sherman, in the course of the debate, that "to designate any officer as possible successor to the President would be *giving him too much dignity*," furnishes at once the clew to the zealous and persevering efforts of Colonel Hamilton and his friends to defeat the designation of the secretary of State, however natural and proper the designation might be in itself, and with reference to general considerations of political fitness.

The weighty objections to the arrangement which was made under the influence of the political interests and passions of the day, and which has been since left undisturbed, from no other consideration, probably, than the very remote and speculative character of the contingency for which it provides, are thus clearly and strongly stated in a letter from Mr. Madison to Judge Pendleton, of the 21st February, 1792:—

“ On another point, the bill certainly errs. It provides, that, in case of a double vacancy, the executive powers shall devolve on the president *pro tempore* of the Senate, and, he failing, on the speaker of the House of Representatives. The objections to this arrangement are various. 1. It may be questioned whether they are *officers* in the constitutional sense. 2. If officers, whether both should be introduced. 3. As they are created by the Constitution, they would probably have been there designated, if contemplated for such a service, instead of being left to legislative discretion. 4. Either they will retain their legislative stations, and their incompatible functions will be blended; or the incompatibility will supersede those stations, and those being the substratum of the adventitious functions, they must fail also. The Constitution says, ‘ Congress may declare what officer, &c. ;’ which seems to make it not an appointment or translation, but an annexation of one office or trust to another office. The House of Representatives proposed to substitute the secretary of State, but

the Senate disagreed ; and, there being much delicacy in the matter, it was not pressed by the former."

Among the measures of general interest adopted during the present session of Congress were an act to provide for the national defence, by establishing a uniform militia throughout the United States ; and another, prescribing the mode in which the militia should be called forth to execute the laws of the Union, to suppress insurrections, and repel invasions. But a military measure of more pressing necessity than either of these was one called for by the disastrous defeat which the army, under General St. Clair, had met with from the hostile Indians of the North-west. Three additional regiments of regulars were provided for, which, with the number already in the field or authorized by law, raised the regular force for the protection of the Western frontiers to somewhat more than five thousand. This involved a large addition to the current national expenditure, and with it a corresponding increase of the national burdens.

The House of Representatives had already called on the secretary of the treasury "for such *information*, with respect to the finances of the United States, as would enable *them* to judge what additional revenue will be necessary in consequence of the increase of the military establishment."<sup>1</sup> But, there being a large party in the House accustomed to the guidance and willing to follow

<sup>1</sup> See the Annals of Congress for 19th January, 1792.



the lead of the secretary as of oracular authority, a motion was now made calling on him "for his *opinion* of the *best mode* for raising the additional supplies." This motion was opposed by Mr. Madison, Mr. Fitzsimmons of Pennsylvania, Mr. Baldwin of Georgia, and others, on the ground that it was a dangerous departure in principle from the constitutional independence of the legislature, and a virtual abdication of the power of originating money-bills, which the Constitution exclusively intrusted to the House of Representatives. The proposition was warmly sustained by Mr. Ames, Mr. Sedgwick, and Mr. Murray of Maryland, who derived their arguments in its favor mainly from the provisions of the act for the establishment of the treasury department.

Mr. Madison showed, with great clearness and force, that the act organizing the treasury department, in making it the duty of the secretary to "digest and prepare plans for the improvement and management of the revenue," furnish "estimates," and "make report and give information to either branch of the legislature respecting matters referred to him," contemplated a procedure wholly different from that proposed in the present instance. It was the business of the legislature to form *opinions* and settle *principles* with regard to the financial policy of the government. To enable them to do this with full knowledge of all the necessary data, they might with propriety call upon the secretary for *information*, for *estimates*, for *facts*, for

*reports of the condition of the treasury*; and having declared, in the form of resolutions, the principles and conclusions they had arrived at concerning the policy to be pursued, it would then again be the province of the secretary, if required, to prepare and report plans of *detail* for carrying those resolutions into effect. But, in the first instance, to call upon the secretary for his *opinion* of the *best* policy to be adopted, was to reverse this natural and constitutional procedure, to render the legislature subordinate to the executive, and to renounce its proper duty and responsibility.

So powerful and unanswerable was this view of the subject, that, on the first day of the discussion, there appeared to be a decided majority of the House against the adoption of the proposition. But, on the following day, the secretary of the treasury, having exerted his personal influence with members, by holding out the threat of resignation if the proposition should not be adopted, it was finally carried by a very close vote, — thirty-one to twenty-seven.<sup>1</sup>

<sup>1</sup> It seems to have been the habit of Colonel Hamilton to consider every opposition to measures in which he was interested, however bottomed that opposition was on principle and a sense of public duty, as proceeding from motives of personal and political hostility to himself. Of Mr. Madison's course on the proposition referred to in the text, he permits himself to speak with a license of imputation diffi-

cult to reconcile with any just notion of delicacy or candor.

"Mr. Madison," he says, "opposed a reference to me to report ways and means for the Western expedition, and combated, on principle, the propriety of such references. He well knew, that, if he had prevailed, a certain consequence would have been my resignation." [The reader may well ask why this should have been the consequence ;

No one can look back to the journals of Congress of this period, without being struck with the dangerous and unconstitutional accumulation of influence and power in the head of the treasury department, by the practice which had grown up, under the dexterous management of his partisans, of referring to him, in the first instance, almost every important question of national policy for his views, and the indoctrination of the legislature. It amounted, in effect, to transferring to him the *initiative* of legislation.

This disposition was not unfrequently indulged at the expense of the chief executive magistrate, as well as of the legislature. In the draught of the act passed by the first Congress, to provide for the public debt, as that act came from the treasury department and even as it was sanctioned by the committee, a clause was contained, empowering the secretary of the treasury, of his own independent action, to make and apply the loan of twelve millions of dollars therein authorized; and when an amendment was moved by Mr. Madison, to strike out the independent power given to the secretary,

or if Colonel Hamilton chose to make it so, why Mr. Madison should have been deterred by it from pursuing his convictions of public duty and propriety.] "Laying aside his usual caution, he boldly led his troops, as he imagined, to certain victory. He was disappointed. Though late, I became apprised of the danger.

Measures of counteraction were adopted; and, when the question was called, Mr. Madison was confounded to find characters voting against him, whom he had counted upon as certain."—See letter of A. Hamilton to Colonel Carrington, of 20th May, 1792, in *Hist. Am. Rep.*, vol. iv. pp. 527, 528.



and to insert in lieu of it, that the President be authorized to cause that sum to be borrowed on behalf of the United States, and placing the other arrangements connected with the subject under his constitutional direction and control as chief of the executive department, the amendment met with earnest resistance from several of the partisans of the treasury, though it finally prevailed by the vote of the House.<sup>1</sup> On the recent occasion of the resolution above referred to, calling upon the secretary of the treasury for *information* respecting the finances of the United States, a motion of Mr. Fitzsimmons to amend the resolution, by "requesting the *President* to *cause* the information to be laid before the House," met with an unceremonious negative.<sup>2</sup>

The resolution calling upon the secretary for his *opinion* of the *best mode* of raising the additional supplies, rendered necessary by the Indian war, having been adopted, that officer now presented a scheme of finance, remodelling the whole system of existing duties on foreign merchandise, in conformity to a report recently made by him, which had for its special object the encouragement of domestic manufactures. The bill passed by Congress was framed in pursuance of his recommendations, and presented a motley and heterogeneous aspect in attempting to combine incongruous objects. Drawbacks, exemptions from duty, and allowances

<sup>1</sup> See Annals of Congress (First Congress, 1789-1791), p. 1639.

<sup>2</sup> See Jefferson's Writings, vol. iv. p. 458.

to be *paid out of the treasury* to favored branches of industry, were huddled together in a bill for raising revenue, with impositions and augmentations of duty intended to *bring money into the treasury*; and although the special occasion and purpose of the bill, as proclaimed by its title, was to raise additional supplies for the protection of the frontiers against Indian hostilities, the general mass of duties imposed by it was, in compliance with the secretary's recommendation, made permanent and of co-equal duration with any portion of the public debt. A proposition to change this last feature, and to limit the duration of the bill to the particular exigency which gave birth to it, failed only by the rule of the House, which allows the speaker a vote, when, by casting it with the minority, he can produce an equal division of the House.<sup>1</sup>

Of the report of the secretary of the treasury on the subject of manufactures, a further notice is demanded, not only by the general interest of its contents, but by the high importance of a question discussed in it, affecting the whole range of the constitutional powers of the government. A resolution adopted by the House of Representatives on the 15th of January, 1790, at the commencement of the second session of the first Congress, had referred it to the secretary of the treasury to pre-

<sup>1</sup> The vote of the House on the proposition was 32 ayes to 31 nays. The speaker (Trumbull) voting

with the minority, made an equal division, and thereby defeated the proposition.

pare and report a plan or plans for the encouragement and promotion of such manufactories as will tend to render the United States independent of other nations for *essential*, particularly *military*, supplies, as recommended in the speech of the President at the opening of the session. Nearly two years had elapsed, when, on the 5th day of December, 1791, the secretary laid before the House the report which had been prepared by him in pursuance of this resolution. Of all his official reports, it is perhaps, for enlarged views of public policy as well as for subtle and profound disquisition, the most distinguished.

To the preliminary discussion of general principles, which forms nearly two-thirds of the report, and in the course of which he sets forth, with great clearness and perspicacity, the advantages of a diversified system of national industry, and of the reciprocal dependence of agriculture, manufactures, and commerce, it would be difficult to take any just exception. But, when he comes to treat of the *means* by which the establishment of manufactures is to be promoted, he is betrayed, by his habitual admiration of British example (long since renounced by Britain herself), into recommendations, not only questionable in the view of general principles and a sound philosophy, but inconsistent with the republican genius and limited nature of the government of the United States. Under the influence of this bias, the instrumentality chiefly relied on by him for the introduction of manufac-



tures was that of *bounties*. Where to find, in the Constitution of the United States, an authority for the employment of this invidious agency, was the problem next to be solved.

The secretary does not hesitate to find it in the first clause of the enumeration of the powers of Congress, which authorizes the "laying of taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and *general welfare* of the United States;" and boldly pronounces that the Constitution leaves it to the *discretion* of the legislature to determine what objects are connected with the general welfare, and that "whatever concerns the general interests of learning, of agriculture, of manufactures, and of commerce, are within the sphere of the national councils, as far as regards an application of money." A construction which, by a single stroke of the pen, at once obliterates and annuls the specific enumeration of the powers of Congress, and revolutionizes the whole character of the government as one of limited and defined authority, could not but startle and arouse the anxious attention of the friends of the Constitution.

Mr. Madison thus earnestly expressed his sentiments on the occasion, in a letter of the 21st of January, 1792, to Judge Pendleton, when transmitting to him by mail a part of the secretary's report, in anticipation of a private conveyance for the whole, which was of too much bulk for the mail-bag of that day. "Not having yet succeeded,"

he says, "in finding such a conveyance, I send you a part of the report in a newspaper, which broaches a new constitutional doctrine of vast consequence, and demanding the serious attention of the public. I consider it myself as subverting the fundamental and characteristic principle of the government; as contrary to the true and fair, as well as the received, construction; and as bidding defiance to the sense in which the Constitution is known to have been proposed, advocated, and adopted." He had already expressed himself, with like energy of conviction, in a letter of the 1st of January, 1792, to Governor Lee, of Virginia. "What think you," said he, "of the commentary on the terms 'general welfare'? The Federal government has been hitherto limited to the specified powers by the greatest champions for latitude in expounding those powers. If not only the *means*, but the *objects*, are unlimited, the parchment had better be thrown at once into the fire."

Mr. Madison did not confine the expression of his opinions, on a question of such vital magnitude, to his private correspondence. He availed himself of the discussion, which occurred in the House of Representatives a few days afterwards, on the bill for the encouragement of the cod-fisheries, to enter his solemn and public protest against a doctrine resting on premises so fallacious, and fraught with consequences so dangerous and subversive.

"This, sir, [the proposition of a bounty,] raises," he said, "the important and fundamental question,

whether the general terms which have been cited are to be considered a sort of *caption* and general description of the specified powers, and giving no further power than what is contained in the specification, or as an abstract and indefinite delegation of power, extending to all cases whatever, — to all such, at least, as will admit an application of money, which is giving as much latitude as any government could well desire. I believe that those who proposed the Constitution conceived, — and it is well known, and more material to observe, that those who ratified the Constitution conceived, — that this is not an indefinite government, deriving its powers from the general terms prefixed to the specified powers; but a limited government, tied down to the specified powers, which explain and define the general terms.

“The gentlemen who contend for a contrary doctrine are surely not aware of the consequences which flow from it, and which they must admit, or give up their doctrine. It will follow, in the first place, that, if the terms be taken in the broad sense they maintain, the particular powers, afterwards so carefully and distinctly enumerated, would be without any meaning, and must go for nothing. It would be absurd to say, first, that Congress may do what they please, and then that they may do this or that particular thing. After giving Congress power to raise money, and apply it to *all* purposes they may pronounce necessary to the *general welfare*, it would be absurd, to say the least, to super-



add a specific power to raise armies, provide fleets, &c., &c.”

“It is to be recollected, that the terms ‘common defence and general welfare,’ as here used, are not novel terms, first introduced into this Constitution. They are terms familiar in their construction, and well known to the people of America. They are repeatedly found in the old Articles of Confederation; where, although they are susceptible of as great a latitude as can be given them by the context here, it was never supposed or pretended that they conveyed any such power as is now assigned to them.<sup>1</sup> On the contrary, it was always considered as clear and certain, that the old Congress was limited to the enumerated powers, and that the enumeration limited and explained the general terms. I ask the gentlemen themselves whether it was ever supposed or suspected that the old Congress could give away the money of the States in *bounties*, to encourage agriculture, or for any other purpose they pleased.

“There are consequences, sir, still more extensive, which, as they follow clearly from the doctrine combated, must either be admitted, or the doctrine must be given up. If Congress can apply money indefinitely to the general welfare, and are

<sup>1</sup> The context particularly referred to here, in which these terms are found in the Articles of Confederation, is the following:—

“All expenses of war, and all other expenses that shall be in-

curred for the *common defence and general welfare*, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury.”—Article VIII. first clause.

the sole and supreme judges of the general welfare, they may take the care of religion into their own hands; they may establish religious teachers in every State, county, and parish, and pay them out of the public treasury; they may take into their own hands the education of youth, establishing, in like manner, schools throughout the Union; they may undertake the regulation of roads and highways generally, as well as of post-roads. In short, every thing, from the highest object of State legislation down to the most minute object of police, would be thrown under the power of Congress; for every object I have mentioned would admit the application of money, and might be called, if Congress pleased, provisions for the general welfare.

“In fine, sir, without going further into the subject, which I should not have touched upon but for the reasons already mentioned, I venture to declare it as my opinion, that, were the power of Congress established in the latitude contended for, it would subvert the foundation and transmute the very nature of the limited government established by the people of America. And what inferences might be drawn, or what consequences ensue, from such a step, it is incumbent upon us all well to consider.”<sup>1</sup>

The appeal of Mr. Madison to the good sense and intelligence of the House, produced the desired effect. The term *bounty*, which had been gratuitously introduced into the bill that came

<sup>1</sup> See Annals of Congress (Second Congress, 1791-1793), pp. 385-389.

down from the Senate, with the design, doubtless, of operating as a recognition of the power contended for to protect favored branches of industry by absolute bounties, at the discretion of the government, was stricken out; and a phraseology accurately descriptive of the nature of the allowance made — as “a drawback on the salt used in curing fish” — was substituted. As thus amended, Mr. Madison, with two of his colleagues of the Virginia delegation, voted for the bill, which passed, by a large majority, in its amended form. Mr. Jefferson, in a very able report made by him as secretary of State the year before, had demonstrated the meritorious title of this hardy and hazardous branch of American enterprise to a legitimate public encouragement.<sup>1</sup>

<sup>1</sup> See his report of 2d of February, 1791, on the Fisheries, in the American State Papers, vol. VII. (Commerce and Navigation), pp. 8-22.



## CHAPTER XLV.

Secretary of the Treasury proposes an Extension of the Funding System, and a Further Assumption of the Debts of the States — The Latter Proposition earnestly opposed by Mr. Madison, and finally defeated — Debate on the Operation and Practical Results of the Funding and Banking Systems of the Secretary — Their Demoralizing Effects freely exposed — Admissions of Mr. Ames in his Private Correspondence — Letter of Mr. Madison, describing the Scenes of Gambling Speculation they had engendered — Congress adjourns — Secretary of Treasury irritated by the Checks which some of his Favorite Schemes had met with — His Denunciations of Mr. Madison in a Long and Querulous Letter to Colonel Carrington — Illiberality and Injustice of his Accusations — Character of Mr. Madison's Mind, and its Superiority to Narrow Party Passions, exhibited in Philosophical Speculations on the General Principles of Political Science, contributed by him, during Session of Congress, to "National Gazette" — The President retains the Warmest Affection and Esteem for him — Consults him confidentially with regard to Retirement from Office at end of his First Term — Interesting Memorandum of these Conferences by Mr. Madison — President requests him to prepare a Valedictory Address for him — Delicacy which marked Mr. Madison's Compliance with this Request — Washington ultimately yields to the Earnest Solicitations of Mr. Madison and other Friends, and the General Wish, to continue in Office another Term — Painful Dissensions in the Cabinet — Open Breach between Mr. Jefferson and Colonel Hamilton — President endeavors to Reconcile them — Their Respective Answers to his Appeal — Uneasiness of the President's Situation increased by Symptoms of Popular Opposition to the Excise — Secretary of the Treasury, to whose Department the Question belonged, urges the President to issue his Proclamation, denouncing the Penal-

ties of the Law against Combinations to obstruct the Collection of the Tax—Proclamation drawn by Colonel Hamilton, and, after an Amendment, recommended by Mr. Jefferson, is issued in the Name and under the Signature of the President.

THE last subject of general interest acted upon, during the present session of Congress, was the recommendation of the secretary of the treasury to make certain supplemental provisions in relation to the public debt. At an early period of the session, he had been called on by a resolution of the House, moved by one of his friends, to lay before Congress a statement of the amount subscribed to the stock of the public debt, “as well in the debts of the respective States as in the domestic debt of the United States, together with such measures as are, in his opinion, expedient to be taken on the subject.” On the 6th of February, 1792, he made his report; of which the leading recommendations were to allow further time for a subscription of the domestic debt of the United States, on *the same terms* as those offered by the original Funding Act, and to authorize a further assumption of the debts of the individual States to their full amount. The first assumption had been limited to twenty-one and a half millions of dollars, which was now estimated to be four millions short of their whole amount. Both of these recommendations, with certain subsidiary provisions, were earnestly pressed by the secretary on the attention of Congress.

The consideration of the report naturally brought under review the general character and operation

of the funding system, as originally proposed and adopted. Its principles and effects were very boldly and ably canvassed by Mr. Findley of Pennsylvania, Mr. Mercer of Maryland,<sup>1</sup> Mr. Giles of Virginia, and Mr. Baldwin of Georgia. Its defence devolved mainly on Mr. Ames and Mr. Gerry of Massachusetts. Mr. Madison took no part in the general discussion, having fully expressed his views when the system was originally presented, but confined himself now to an earnest protest against any further assumption of the debts of the States.

“A great deal had been said,” he observed, “to prove that the general government is under obligation to provide for the debts of the individual States. The gentlemen who maintain this opinion have not shown that the creditors themselves ever entertained an idea that they should look to the United States for the payment of those debts. It is not pretended that the new Constitution varies the situation of the creditors. They stand precisely on the same ground they did under the old Confederation. . . . He denied that the first assumption had been generally approved or acquiesced in, and adverted to the proceedings and resolutions of the State of Virginia on the subject. Papers are

<sup>1</sup> Mr. Mercer, in animadverting on the *irredeemability* of the public debt under the provisions of the Funding Act, denied the power of Congress thus to tie up the hands of their successors; and in the

course of his remarks maintained the thesis, — which we have seen (ante, pp. 119, 120) was broached by Mr. Jefferson two or three years before, — that by natural right one generation cannot bind another.



on the table to show the truth of what is now asserted. He was sorry to find that no more attention had been paid to them. He then noticed the returns of imports and exports from the several States, to show the unequal operation of the assumption as it affects those States,—particularly Virginia, who pays so great an over-proportion of interest on the debts of some of the States.”<sup>1</sup>

The proposition to assume the residue of the debts of the States was, on taking the question, rejected by a vote of twenty-nine against, to twenty-six for it. The other suggestions of the secretary were, with some modifications, adopted, and embodied in an act “supplementary to the act making provision for the debt of the United States.” There was one provision, however, introduced into the act, which, it appears from a letter of the secretary to a friend, was regarded by him with particular displeasure; as implying that the public money had been, or might be, unfaithfully applied to support the public debt at artificial prices in favor of speculators.<sup>2</sup>

The provision complained of was to this effect: “that all future purchases of the public debt, on account of the United States, shall be made at the lowest price at which the same can be obtained by open purchase; or by receiving sealed proposals, to be opened in the presence of the commissioners

<sup>1</sup> Annals of Congress (Second Congress, 1791–1793), p. 531.

of 26th May, 1792, in Hist. Am. Rep., vol. iv. pp. 520–540.

<sup>2</sup> Letter to Colonel Carrington

and the persons making such proposals." The assertion had been made in the newspapers of the day, and was repeated by a distinguished member,<sup>1</sup> on the floor of the House, that "agents for the treasury department have gone into the market, and given higher prices for stock than individuals purchased at." To establish by authority of law a general rule for all transactions of the kind was, doubtless, deemed by Congress the proper security against the possibility of such abuses, now or hereafter.

With this act closed, on the 8th of May, 1792, the first session of the second Congress. The adjournment was to the first Monday of November following. The debates of the session had been marked by a tone of great independence and freedom in opposition to the policy of the secretary of the treasury. His funding and banking systems, by the mania of speculation and stock-jobbing they engendered, had already borne such evil fruits in the extensive demoralization of society, and the general derangement of the ordinary pursuits of industry, as greatly to intensify the feelings of aversion with which they were originally regarded. A member of Congress, referring in debate to the practical effects of the funding system, thus characterized its operation: "It has introduced the most extravagant combinations; promoted fictitious credits; and, by giving a facility to stock-jobbing

<sup>1</sup> Colonel Mercer of Maryland. — See *Annals of Congress* (Second Congress), p. 353.

in all its various forms, has become an enormous and ruinous snare. It has occasioned many of the most enterprising characters to desert the useful paths of industry. Dissipation, gambling, extravagant projects, and extravagant modes of life, are promoted to such a degree as to be ruinous to our morals and degrading to our national character.”<sup>1</sup>

The private correspondence of the times bears ample testimony to the truth of this picture. Even Mr. Ames, one of the most devoted partisans of the secretary and a zealous supporter of his policy, writes to a friend as early as the 23d January, 1792, “The mad bank-schemes of New York produce ill effects. Sober people are justly scared and disgusted to see the wild castle-builders at work. It gives a handle to attack the government.”<sup>2</sup>

Mr. Madison, in a letter to Judge Pendleton of the 25th of March, 1792, thus writes: “The gambling system, which has been pushed to such an excess, is beginning to exhibit its explosions. D—r of New York, the prince of the tribe of speculators, has just been a victim to his enterprises, and involves an unknown number, to an unknown amount, in his fate. It is said by some, that his operations have extended to several millions of dollars; that they have been carried on by usurious loans from three to six per cent per month; and that every description and gradation of persons, from the church

<sup>1</sup> Speech of Mr. Findley of Pennsylvania, Annals of Congress (Second Congress), p. 523.

<sup>2</sup> See Fisher Ames's Life and Correspondence, vol. i. p. 111.



to the stews, are among the dupes of his dexterity and the partners of his distress." And again, in a letter of the 9th of April, he adds, "New York continues to be a scene of bankruptcies, resulting from D—r's fate and the fall of the stocks. Every day exhibits new victims, and opens new scenes of usury, knavery, and folly. If the stock should not be artificially revived, it is suspected that the ensuing week will be a very trying one to this city."

To propose, in the midst of such scenes, an extension of the system which had produced them, argued great boldness, if not temerity, on the part of the secretary, and awakened a corresponding energy of opposition on the part of those who disapproved his policy. We have seen his recommendation of an additional assumption of the State debts firmly rejected; his new gloss of the Constitution, with regard to an unlimited power of raising and applying the public money, repudiated by a solemn vote of the House, in the case of bounties; his favorite scheme, of making the Tax Bill permanent, carried only by the vote of the speaker, producing an equal division of the House on a proposition of amendment; and a motion to refer a certain class of legislative inquiries to himself, in which he exerted an active personal influence, barely sustained by a meagre majority. These unwonted checks and admonitions, superadded to the overruling of his opinion on the Representation Bill by the President, appear to have left his mind, at

the close of the session, in a sore and ulcerated condition.

He unburthened his complaints to a friend in a letter of a very extraordinary character, which has recently been given to the public,<sup>1</sup> and in which he makes Mr. Madison the special object of his denunciations. The letter was addressed to Colonel Carrington of Virginia, on the 26th May, 1792, and has been heretofore incidentally alluded to. A more particular notice of it seems to be called for here, as belonging to the history of the times, and essential to a just appreciation of the characters of the parties, the accused and the accuser. He sets out with an emphatic declaration of his conviction, that "Mr. Madison, co-operating with Mr. Jefferson, is at the head of a faction hostile to *me* and *my* administration, and actuated by views, in my judgment, subversive of the principles of good government, and dangerous to the union, peace, and happiness of the country."

The several counts of this indictment are founded upon the opposition of Mr. Madison to the funding system, and the assumption of the State debts; his alleged patronage of the doctrine, that one generation cannot bind another, and that Congress was, therefore, at liberty to disregard the public faith pledged in the Funding Act; his participation in inducing Freneau to establish a political journal at Philadelphia; his opposition to the call upon the secretary, at the late session of Congress, for his

<sup>1</sup> By his son and biographer, in *Hist. Am. Rep.*, vol. iv. pp. 520-540.

opinion of the best mode of raising supplies for the Indian war; the support given by him to the provision in the supplementary act, requiring purchases of the public debt, on account of the United States, to be made at the lowest market price; and, finally, a very vague and shadowy charge, about tampering with one of the President's messages relative to weights and measures, which seems to have been thrown in as a sort of makeweight.

With regard to these alleged misdemeanors of Mr. Madison, those of them which were founded in fact have been shown to be justified, as to their motives at least, by the high grounds of public principle, on which, in each instance, Mr. Madison placed his conduct and decision. There they may be securely left to speak for themselves to successive generations. The only one of the specifications in the indictment, which could be considered as attaching serious reproach to his character as a statesman,—the imputed patronage of a dangerous and disorganizing dogma, affecting the sanctity of public obligations,—was wholly destitute of foundation, and contradicted directly by an authentic record of Mr. Madison's well-considered opinions, sustained by the ablest and most conclusive reasonings.<sup>1</sup>

What specially demands notice, in this diatribe of Colonel Hamilton against Mr. Madison, is his free ascription of unworthy personal motives to the conduct of a distinguished political opponent, whose

<sup>1</sup> See ante, chap. XL. pp. 119-122.



great offence consisted in his not being able conscientiously to support the measures and policy of the treasury department. A "spirit of rivalry," "personal and political animosity," "unfriendly intrigues," "a variety of circumstances which left Mr. Madison a very discontented and chagrined man," "feelings of personal mortification," a malignant design "to subvert the head of the treasury, at the risk of rendering the government itself odious," — these were the imputations heaped, in boundless and vindictive profusion, on the head of an enlightened statesman, whose sober judgment and honest convictions of the public interests would not permit him to approve the latitudinous doctrines and the centralizing schemes of the secretary. Resolved to wage an unsparing war on those who did not support his measures, he says with regard to Mr. Madison, "I had some short time before — subsequently to his conduct respecting the reference — declared openly my opinion of the views by which he was actuated, and my determination to consider and treat him as a political enemy."

So extraordinary an exhibition of passionate intolerance, in which the writer does not even spare some of his political friends, — whom he accuses, on a particular occasion, of having "enlisted, from various motives of *vanity*, *self-importance*, &c., under the banner of Mr. Madison," — does not give the most favorable idea of his justice, candor, or magnanimity. He seems, indeed, to have been unconsciously drawing his own portrait, when, in the

same letter, speaking of Mr. Jefferson, he says, "I read him thus: 'a man of profound ambition and violent passions.'" But of Mr. Madison, distinguished above all his contemporaries, who acted a conspicuous part on the public stage in those stormy times, by the moderation of his temper and the philosophical serenity of his understanding, what could have afforded a color, even, for the intemperate and uncharitable invectives we have cited? Endowed, though he was, with strong moral sensibilities, and entertaining deep and earnest political convictions founded on reflection, he was nevertheless, by the amiableness of his nature, extremely averse to the bitterness and violence of party strife. He was, indeed, not a party man, in the ordinary and received sense of the term.

We have seen, that, on the original question of the excise duty on distilled spirits, though strongly opposed to it on general principles, he yet voted for it, under a paramount sense of the obligation of providing for the national engagements, and in doing so separated himself from the political party with which he usually acted. During the late session of Congress, he again separated himself from his party on the question of giving encouragement to the cod-fisheries as a branch of industry connected with the national defence, when the bill was freed from the constitutional objections he made to it. He had taken no leading or ambitious share in the party debates of the session. So little taste had he for this species of controversy, that he was

silent, except when, summoned by an imperious sense of public duty, he bore his testimony against some measure which he believed to be inconsistent with the Constitution, or dangerous to the interests of the country; and then he spoke without passion or exaggeration, but with the solemn earnestness of conviction, and the inherent weight and dignity belonging to his character.

It is a remarkable proof of his freedom from party excitement, as well as of the habitual elevation of his mind, that he devoted no small portion of his time, during the agitated scenes of this session, to abstract speculations on the general principles of political science, which he embodied in brief articles for the "National Gazette," imbued with the philosophical spirit of Montesquieu and Aristotle, and resembling, in condensation of thought and language, the pregnant chapters of those great political writers. They were his only contributions at the time to the press, and wholly free from any taint of party spirit. They are in a small compass, monuments of a trained and comprehensive statesmanship, worthy to descend to posterity; and as such, in order to afford the means of reference to them, we subjoin a list of the articles, with their respective subjects, and the dates of their appearance in the journal in which they were published.\*

* 1. Population & Emigration 21 Nov. 1791	7. Charters . . . . . 19 Jan 1792
2. Consolidation . . . . . 5 Dec. "	8. Parties . . . . . 23 " "
3. Public Opinion . . . . . 19 " "	9. British Government . . 30 " "
4. Money . . . . . 19 " "	10. Universal Peace . . . . 2 Feb. "
5. Money again . . . . . 22 " "	11. Government of United States 6 " "
6. Government . . . . . 2 Jan. 1792	12. Spirit of Government . . 20 " "



The unbounded confidence and cordial affection of the President, of which Mr. Madison received a renewed and most signal proof at this time, form a most striking contrast to the bitter and illiberal denunciations of the secretary of the treasury. It is well known with what extreme reluctance the President had quitted his retirement, and entered upon the cares of the exalted station he now filled. His desire to return to private life, strong under all circumstances, was now greatly increased by the political divisions that had sprung from the measures of the government, and by the dissensions which had appeared, and were daily becoming more manifest, among the members of his cabinet. He had therefore made up his mind to decline a re-election; and, as the new election was to take place in the autumn, he was anxiously considering the proper time and manner of making known his intention. On these delicate points he now sought the counsel of Mr. Madison, as the friend on whose judgment and fidelity he especially relied.

Of the deeply interesting conference which took place on the occasion, Mr. Madison made a full record at the time. As the paper is too long for entire insertion here, we must content ourselves with such extracts from it as will convey a general idea of the matter and spirit of the conversation.

13. Republican Distribution of Citizens . . . . .	5 Mar. 1792	17. A candid State of Parties	25 Sept. 1792
14. Fashion . . . . .	22 „ „	18. Same Subject continued	26 „ „
15. Property . . . . .	29 „ „	19. On perpetual Peace ( <i>about same date</i> ).	
16. The Union, who are its real Friends . . . . .	2 April „	20. Who are the best keepers of the People's Liber- ties . . . . .	22 Dec. 1792

The memorandum bears date the 5th day of May, 1792, and commences by saying, —

“In consequence of a note this morning from the President, requesting me to call on him, I did so; when he opened the conversation by observing, that, having some time ago communicated to me his intention of retiring from public life on the expiration of his four years, he wished to advise with me on the *mode and time* most proper for making known that intention. He had, he said, spoken with no one yet on *those particular points*; and took this opportunity of mentioning them to me, that I might consider the matter, and give him my opinion before the adjournment of Congress, or my departure from Philadelphia. He had forborne to communicate his intention to any other persons whatever, but Mr. Jefferson, Colonel Hamilton, General Knox, and of late to Mr. Randolph.”

After detailing some other observations on the part of the President, the memorandum proceeds, —

“I replied that I would revolve the subject as he desired, and communicate the result before my leaving Philadelphia; but that I could not but yet hope there would be no necessity at this time for his decision on the two points he had stated. I told him, that, when he did me the honor to mention the resolution he had taken, I had forborne to do more than briefly express my apprehensions that it would give a surprise and shock to the public

mind, being restrained from enlarging on the subject by an unwillingness to express sentiments sufficiently known to him, or to urge objections to a determination which, if absolute, it might look like affectation to oppose; that the aspect which things had been latterly assuming seemed, however, to impose the task on all who had the opportunity, of urging a continuance of his public services; and that, under such an impression, I held it a duty, not indeed to express my wishes, which would be superfluous, but to offer my opinion, that his retiring at the present juncture might have effects that ought not to be hazarded."

Mr. Madison added many other remarks, showing his appreciation of the great sacrifice General Washington had made of his inclinations as a man to his obligations as a citizen in accepting the presidency; but urged that reasons of a like kind to those which had induced him to undertake, still required him to retain for some time longer his present station. The President then went into a more explicit disclosure of the state of his mind, observing,—

"That he could not believe or conceive himself anywise necessary to the successful administration of the government; that, on the contrary, he had from the beginning found himself deficient in many of the essential qualifications, owing to his inexperience in the forms of public business; . . . that the fatigues and disagreeableness of his situation were in fact scarcely tolerable to him; that he only



uttered his real sentiments when he declared, that his inclination would lead him rather to go to his farm, take his spade in his hand, and work for his bread, than remain in it; that it was evident, moreover, that a spirit of party in the government was becoming a fresh source of difficulty, and, he was afraid, was dividing some (alluding to the secretary of State and the secretary of the treasury) more particularly connected with him in the administration; that there were discontents among the people, which were also showing themselves more and more; &c., &c.”

The observations of the President, with regard to his inexperience in matters of civil administration, were met by a reference to the general satisfaction which his enlightened and impartial judgment had given; and Mr. Madison, then adverting to what the President had said respecting the difficulties produced by the new party divisions that had arisen, made the following answer, which we record in the words of the memorandum:—

“With respect to the spirit of party, that was taking place under the operations of the government, I was sensible of its existence, but considered that as an argument for his remaining, rather than retiring, until the public opinion, the character of the government, and the course of its administration, should be better decided, which could not fail to happen in a short ~~time~~ under his auspices; that the existing parties did not appear to be so formidable to the government as some had represented;

that in one party there might be a few who, retaining their original disaffection to the government, might still wish to destroy it, but that they would lose their weight with their associates by betraying any such hostile purposes; that although it was pretty certain that the other were, in general, unfriendly to republican government, and probably aimed at a gradual approximation of ours to a mixed monarchy, yet the public sentiment was so strongly opposed to their views, and so rapidly manifesting itself, that the party could not long be expected to retain a dangerous influence; that it might reasonably be hoped, therefore, that the conciliating influence of a *temperate and wise* administration would, before another term of four years should run out, give such a tone and firmness to the government as would secure it against danger from either of these descriptions of enemies."

The objections to the President's retirement were further enforced by the extreme difficulty, if not impossibility, of selecting at the present time, out of the several names most conspicuous in the public view, a successor that would be satisfactory to the nation. The memorandum of this interview, recalling so many august and imposing recollections, thus concludes:—

"Without appearing to be any wise satisfied by what I had urged, he turned the conversation to other subjects; and, when I was withdrawing, repeated the request, that I would think of the points he had mentioned to me, and let him have

my ideas on them before the adjournment. I told him I would do so, but still hoped his decision on the main question would supersede for the present all such incidental questions."

Three days afterwards, on the 9th of May, Mr. Madison had another interview with the President, of which he gives the following account in a memorandum of that date: —

"Understanding that the President was to set out the ensuing morning for Mount Vernon, I called on him, to let him know, that, as far as I had formed an opinion on the subject he had mentioned to me, it was in favor of a direct address of notification to the public, in time for its proper effect on the election, which, I thought, might be put into such a form as would avoid every appearance of presumption or indelicacy, and seemed to be absolutely required by his situation. . . . I added that if, on further reflection, I should view the subject in any new light, I would make it the occasion of a letter; though I retained my hopes that it would not yet be necessary for him to come to any decision on it. He begged that I would do so, and also suggest any matters that might occur as proper to be included in what he might say to Congress at the opening of their next session."

On the 25th of May, Mr. Madison, being then on his way to Virginia, met the President on the road, returning to Philadelphia, when the latter handed him a letter from himself, dated at Mount Vernon, the 20th instant. This letter having been



already given to the public,<sup>1</sup> it is only necessary to refer to it in very general terms. It begins with saying, "As there is a possibility, if not a probability, that I shall not see you on your return home, or if I should see you that it may be on the road, and under circumstances which may prevent my speaking to you on the subject we last conversed upon, I take the liberty of committing to paper the following thoughts and requests. I have not been unmindful of the sentiments expressed by you in the conversation just alluded to: on the contrary, I have again and again revolved them with thoughtful anxiety, but without being able to dispose my mind to a longer continuance in the office I have now the honor to hold. I therefore still look forward, with the fondest and most ardent wishes, to spend the remainder of my days, which I cannot expect to be long, in ease and tranquillity."

He then reiterated his request, that Mr. Madison would think of the proper time and mode of announcing his intention to the public, and that he would also prepare for him a suitable address making the annunciation. He added a further request, that Mr. Madison, if the measure should appear to him to be a proper one, would also prepare for him a valedictory address to his countrymen, embodying such counsels and reflections as should seem most appropriate to the occasion; of some of which he gave an exceedingly lucid and impressive sketch, and left the rest to the judgment of his friend.

<sup>1</sup> Sparks's Washington, vol. XII. pp. 382-385.

His letter concluded: "Though I do not wish to hurry you in the execution of the publications before mentioned, I should be very glad to hear from you generally on both, and to receive them in time, if you should not come to Philadelphia before the session commences, in the form they are finally to take. . . .

"With very sincere and affectionate regards, I am ever yours,  
GEORGE WASHINGTON."

As soon as he could command the necessary leisure, after his return to Virginia, Mr. Madison turned his thoughts to the fulfilment of the very delicate as well as flattering trust, which the confidence and friendship of the President had devolved upon him. The result of his reflections was contained in a letter to the President, of the 20th of June, evincing the most scrupulous and faithful attention to every circumstance affecting the wishes or the fame of his illustrious friend, and accompanied by the draught of such an address as appeared best calculated to carry out the views of the President, and to accord with the solemn interest and dignity of the occasion.<sup>1</sup> Of the merits of this paper, which met the hearty approval of the President, and of which he gave the highest evidence of his appreciation, four years later, by incorporating it, *verbatim et literatim*, in the sketch of the more extended and copious address which intervening

<sup>1</sup> See both the letter and the address in Sparks's Washington, vol. XII. pp. 385-390.

occurrences had then suggested, it would be a digression from the course of our narrative now to speak. We confine ourselves to giving here the concluding paragraph of the letter of Mr. Madison to the President, as an additional illustration of the cordial and unbroken confidence which still bound them together in the closest communion of public and private sentiments: —

“Having thus complied with your wishes, by proceeding on the supposition that the idea of retiring from public life is to be carried into execution, I must now gratify my own, by hoping that a reconsideration of the measure, in all its circumstances and consequences, will have produced an acquiescence in one more sacrifice, severe as it may be, to the desires and interests of your country. I forbear to enter into the arguments which, in my view, plead for it; because it would be only repeating what I have already taken the liberty of fully explaining. But I could not conclude such a letter as the present, without a repetition of my own anxious wishes and hopes, that our country may not, in this important conjuncture, be deprived of the inestimable advantage of having you at the head of its councils. With every sentiment of respect and affectionate attachment, I am, dear sir, your most obedient friend and servant,

JAMES MADISON.”

The earnest entreaties of his friends, the manifestation of the public wish, and the increasing exigency of public affairs, finally prevailed with the



President to acquiesce, though most reluctantly, in a re-election, and to postpone for another term of four years the execution of his ardent desire to seek again the shades of private life. It deserves to be here recorded, that those who were most forward and earnest in their appeals to Washington, to remain yet longer at the head of the government, were members of the Republican party; and chief among them Jefferson and Randolph, as well as Madison.<sup>1</sup> And yet it has been the habit of historical writers of the Federal school to represent the Republican opposition of this period to the measures of the secretary of the treasury as an opposition to the head of the administration. Even the earliest and most distinguished of those writers, with all his judicial calmness, countenances this error, by speaking habitually of strictures on the recommendations and measures of the secretary of the treasury as hostile attacks on the ADMINISTRATION of Washington.<sup>2</sup>

But nothing can be more opposed than language of this kind, not only to the testimony of facts, but to the well-known principle adopted by Washington, of leaving, in general, to each of the principal officers of State, the responsible management of the proper business of his own department. This prin-

<sup>1</sup> See the letters of Mr. Jefferson and Mr. Edmund Randolph, here referred to, in Sparks's Washington, vol. x., Appendix, pp. 504-515.

<sup>2</sup> As examples of this erroneous bias on the part of Judge Marshall,

see particularly what he says, with reference to the very period of time here under review, in *Life of Washington* (second and revised edition), vol. II. pp. 216, 227, 229.

ciple was especially applicable to the treasury department; because it was in constant and direct communication with the legislature, and was by many regarded as an appendage to the legislative, rather than to the executive, branch of the government. The funding system, the assumption of the State debts, and all the cognate measures, were, in truth, the offspring of recommendations *made directly to Congress by the secretary alone*, in answer to calls *made directly upon him by Congress*. The line of demarcation, therefore, between the plans and recommendations of the secretary of the treasury, and the individual opinions and responsibility of the President, was broad and deep in the public mind, as well as in the minds of all those who, in their respective stations, opposed the one, while zealously adhering to the other.

The fundamental differences of opinion between the secretary of State and the secretary of the treasury, with regard to the policy of the government, could not but be a source of much embarrassment, as well as a subject of painful regret, to the President. The annoyance was greatly increased by the publicity which those differences had at length acquired, and by their having been recently transferred to the contentious forum of the press. The secretary of the treasury so far threw aside the reserve of his official position, as to publish in one of the newspapers of the city of Philadelphia,<sup>1</sup> though under an anonymous guise, a

<sup>1</sup> Fenno's United-States Gazette.

series of articles assailing, with great freedom and bitterness, the character and conduct of the secretary of State. His alleged justification for this unseemly war, waged upon a colleague, was derived from the fact, that frequent animadversions upon the measures and conduct of his department had appeared in another journal,<sup>1</sup> which he charged to be under the official patronage and influence of the secretary of State.

The imputations made upon both Mr. Madison and Mr. Jefferson, with regard to the establishment of that journal, have been already referred to and fully explained. Mr. Jefferson now emphatically declared, in a letter to the President, "that I never did, by myself or any other, directly or indirectly, say a syllable, or attempt any kind of influence, in the conduct and management of that press. I can further protest, that I never did, by myself or any other, directly or indirectly, write, dictate, or procure any one sentence or sentiment to be inserted in that or any other gazette, to which my name was not affixed or that of my office."<sup>2</sup>

The President made an earnest appeal to both parties to compose their differences, if possible, by cultivating a spirit of "liberal allowance and mutual forbearance." In answer to this appeal, Mr. Jefferson said he was "more desirous of predisposing every thing for the repose to which it was his intention to withdraw, than expose it to be dis-

<sup>1</sup> Freneau's National Gazette.

<sup>2</sup> See Sparks's Washington, vol. x. p. 523.



turbed by newspaper contests. If these, however," he added, "cannot be avoided altogether, yet a regard for your quiet will be a sufficient motive for deferring it till I become merely a private citizen, when the propriety or impropriety of what I may say or do will fall on myself alone."

Colonel Hamilton professed his willingness to concur in any plan which the President might form for "re-uniting the members of his administration upon some steady principle of co-operation," and pledged himself "not to say or do any thing, directly or indirectly, which shall endanger a feud." And yet, within six days after this assurance, he commenced the publication of a new series of vituperative articles, with a change only of his pseudonym, which, for virulence and asperity, have rarely had their parallel in the history of personal or political warfare.<sup>1</sup> They were continued for a period of four months, to the close of the year. Mr. Jefferson forbore all participation in the unseemly strife; but it was not possible to impose the same restraint upon his political friends and admirers, who were unwilling to stand by in silence, and see him thus assailed, without going forth to his vindication.

These unhappy dissensions in the cabinet of Washington painfully recall the scenes which the political differences or personal animosities of Hali-

<sup>1</sup> Colonel Hamilton's letter to the President, from which the extract is given above, bore date the 9th of September, 1792 (see Sparks's Washington, vol. x. pp.

515-517); and the publication of the Nos. of "Catullus," in "Fenno's Gazette," was commenced on the 15th of that month.— See Hamilton's Works, vol. vii. p. 34.

fax and Danby, of Nottingham and Shrewsbury, of Delamere and Godolphin, produced in the first cabinet of William the Third; the bitter experience of which, we are told,<sup>1</sup> drove that great ruler, at one time, to the resolution of no longer enduring the "splendid slavery" of the new sovereignty imposed upon him, but of retiring to his native land, where the name of Orange was yet dear to his countrymen. The solemn appeal made by him to his counsellors "to be diligent and to be united;" and his final and sublime resolve, announced to his bosom friend in these words, "My trust is in God: I will go through my work, or perish in it,"—all rise to the memory, in touching association with the trials and the magnanimity of Washington.

One other circumstance occurred, during the recess of Congress, to add to the uneasiness and solicitude of the President. The extreme unpopularity of the excise on distilled spirits in some parts of the Union,—in Pennsylvania particularly,—had given rise to public meetings and other demonstrations of a concerted purpose, to thwart the collection of the tax. The secretary of the treasury, within whose province the matter specially fell, deemed the occasion one which demanded an imposing manifestation of the power and energy of the government, and recommended that a proclamation should be immediately issued by the President, declaring his determination to enforce the

<sup>1</sup> Macaulay, *Hist. Eng.*, vol. III. — See pp. 50–53, 320–325, 418–421, 469–475.

laws, and denouncing to all persons concerned the consequences of any attempt to obstruct their operation. The draught of such a proclamation he forwarded to the President, then at Mount Vernon, who soon returned it with his signature, after a modification of some importance, recommended by Mr. Jefferson, whose formal attestation as secretary of State was required to the act. The gravity of the measure was fully felt by the President, and led him to remark, in returning the proclamation to the secretary of the treasury, that, in the ulterior proceedings which may become necessary, "the Constitution and laws must strictly govern; and the employing of the regular troops must be avoided, if it be possible to effect order without their aid."<sup>1</sup> Of some of the consequences of this measure, both direct and incidental, we shall have occasion to speak in the further progress of our narrative.

<sup>1</sup> Sparks's Washington, vol. x. p. 297. The remark of the President, here cited, was doubtless occasioned by the temper disclosed in the letters of the secretary of the treasury, which smacked very much of the Straffordian thorough. "The propriety," said the secretary, "of issuing the proclamation

depends, of course, upon a *resolution to act* in conformity to it, and put in force all *the powers and means* with which the executive is possessed, as occasion shall require. *My own mind is made up fully to this issue; and on this my suggestion of the measure is founded.*" — Idem, p. 530.



## CHAPTER XLVI.

Second Session of Second Congress — President's Speech, and Addresses of the Two Houses — Mr. Madison's Objections to the Address of the House of Representatives — Proposition to allow the Secretary of the Treasury and Secretary of War to be heard in *Person* before Congress, in Explanation and Defence of their Measures — Opposed by Mr. Madison, as contrary to the Genius of the Constitution, and rejected — Renewed Discussion on the Propriety of Legislative References to the Secretary of the Treasury — Mr. Madison again delivers his Views on the Subject — Report of Secretary of Treasury on Redemption of Public Debt — Illusory, and for Political Effect — His Plan for anticipated Re-imbusement of Loan to Bank of United States — Zealously opposed by Mr. Madison — Finally rejected by General Vote of the House — Discussion on the Bill leads to Startling Disclosure — Large Sums, borrowed abroad for Payment of Foreign Debt, drawn into the United States and applied to wholly Different Purposes — Resolutions of Inquiry adopted — Answers of Secretary of Treasury — Mr. Giles moves Resolutions censuring his Proceedings — Animated Debate upon the Resolutions — Remarks of Mr. Findley — Speech of Mr. Madison — Friends of the Secretary insinuate Existence of Undivulged Instructions from the President — Resolutions of Censure finally negatived by Large Majority — Mr. Jefferson's Explanation of the Result — Additional Explanation from Subsequent Developments — Facts with regard to Alleged Instructions of the President — Communication from Edmund Randolph to Mr. Madison — Declaration of President on Statement made by Secretary of Treasury — The Secretary not satisfied with President's Declaration — President declines to modify his Declaration — Conclusion from a Review of all the Circumstances — Session of Congress closes — Election of President and Vice-President — Votes counted

in Joint Meeting of the Two Houses — Growing Opposition to Vice-President — Supported by the Federalists, opposed by the Republicans — Letters of Colonel Hamilton, Mr. Jefferson, and Mr. Madison, in relation to the Election.

CONGRESS, according to their adjournment, again assembled on the first Monday in November. On the following day, the President's speech, the original draught of which was prepared by Colonel Hamilton,<sup>1</sup> was delivered in person before the two Houses in joint meeting. A large portion of it was devoted to the Indian war on the Western frontiers, which was, unhappily, not yet terminated; and a prominent place was given to the opposition which had arisen, in some parts of the United States, to the law imposing an excise on distilled spirits. The speech adverted to the proclamation which had been issued by the President; declared that no constitutional or legal means would be omitted, on the part of the executive, to assert and maintain the just authority of the laws; and expressed the hope that the other departments of the government would yield their full co-operation in aid of the same object.

Mr. Madison, as in every instance but one since the organization of the government, was made chairman of the committee to prepare the address in answer to the speech; and Mr. Benson of New York, and Mr. Murray of Maryland, both warm personal and political friends of Colonel Hamilton, were associated with him on the committee. The

<sup>1</sup> See his Works, vol. iv. pp. 323-328.

address reported was an echo throughout to the speech, and in one particular — the animadversion on the opposition to the excise law — transcended the speech in its tone of denunciation and censure. In this respect, it derived its inspiration evidently from a passage in the original draught of the speech by the secretary of the treasury, which the President, in the exercise of his calmer judgment, had thought proper to omit. The passage here alluded to stigmatized the opposition as originating in a quarter (Western Pennsylvania) “where the enjoyment of immediate benefits from the common contributions of the country was to have been expected to fortify the general sense of duty and respect towards the government and its laws, and the disposition to share the public burthens.” The address, echoing the spirit and copying in part the language of this passage, which had been rejected by the good sense and dignity of the President, expressed “the hope, that, while the progress of contentment under the law in question is as obvious as it is rational, no particular part of the community may be permitted to withdraw from the general burthens of the country, by a conduct as irreconcilable to national justice as it is inconsistent with public decency.”

However natural language of this sort might appear in the mouth of the secretary of the treasury, who had committed himself, and every department of the government, as far as it was in his power to do so, to the policy of an inflexible mainte-



nance of an odious and unpopular law, at whatever hazard to the public tranquillity;<sup>1</sup> and however disposed his two political friends on the committee might be to indorse and support his views,—to the unbiassed mind of Mr. Madison, the language thus used seemed as inadmissible in principle as it was unbecoming in temper. In a letter to Judge Pendleton, dated the 16th November, 1792, speaking of the addresses of the two Houses, he says:—

“That of the House of Representatives, relating to the excise, is thought by some of us to have been carried too far. That laws in force should be supported, is right, and ought to be asserted. But to say, first, that a free government should listen to representations with a disposition to give redress when proper, and then to prejudge them by saying that the progress of contentment is as obvious as it is *rational*, does not appear very consistent. And as little prudent was it, perhaps, to add what will be regarded as an insinuation, that the opposition to the excise proceeds from a selfish and unjust

<sup>1</sup> Colonel Hamilton's advice to the President to issue his proclamation, denouncing the opposition to the excise law, was considered by his cooler and wiser friends to be highly imprudent. In a letter to him of the 8th of September, 1792, Chief-justice Jay says, “I have conferred with Mr. King on the subject of yours of the 3d instant. We concur in opinion, that neither a proclamation, nor a particular charge by the court to the grand jury, would be advisable at present. To us it appears more prudent that

the business be opened by the President's speech at the ensuing session of Congress. . . . No strong declarations should be made, unless there be ability and disposition to follow them with strong measures. Admitting both these requisites, it is questionable whether such operations, at this moment, would not furnish the *antis* with materials for deceiving the uninformed part of the community, and, in some measure, render the operations of administration odious.”—See Hamilton's Works, vol. v. p. 524.

wish to avoid a common share of burden, — an insinuation not commonly true, and more likely to inflame than to heal the wound.”

These sober views of Mr. Madison, however, were overruled; and the address, as it came from the hands of the majority of the committee, was adopted by the House, which, having participated in the enactment of the obnoxious law, was hardly to be considered an impartial tribunal in the question now raised.

A few days afterwards, a proposition, attended with less success, was moved in the House, which challenges attention in a constitutional point of view, as well as for its party bearings. At the last session of Congress, a committee had been appointed to inquire into the causes of the disastrous failure of General St. Clair's expedition against the Indians. The report of the committee, not made till near the close of the session, was supposed to implicate, in a certain degree of responsibility and censure, both the war and the treasury departments, on account of the faulty execution of some arrangements, connected with the success of the campaign, which depended on them. A day being now assigned for the consideration of the report, a motion was made by Mr. Dayton of New Jersey, that “the secretary of the treasury and the secretary of war be notified of the fact, to the end that they may attend the House, and furnish such informations as may be conducive to the due investigation of the matters stated in the report.”

The personal attendance of the head of an executive department, for the purpose of being heard on any matter depending before Congress, was an entire novelty in the legislative usages of America. A considerable party in the country, however, habitually prone to an imitation of the usages of the British government, without sufficiently reflecting on the important differences in the structure and administrative genius of the two systems, had, from an early period, been desirous of introducing here a practical adoption of the British principle of admitting ministers to a personal participation in the proceedings and deliberations of the legislature.<sup>1</sup> At the first session of Congress succeeding the organization of the treasury department, a motion was made by a member from New Jersey,<sup>2</sup> and apparently favored by another from New York,<sup>3</sup> that the secretary should make his financial reports to the House in person, in order that he might give oral explanations and illustrations of the plans submitted by him. The proposition was then promptly and decisively rejected; and the

<sup>1</sup> The genius of the English and that of the American Constitution are in pointed contrast with regard to this matter. A modern English writer, of the greatest historical and political sagacity and research, pronounces the executive government of England, since the Revolution of 1688, to be in truth the government of "*a committee of leading members of the two Houses of Parliament.*" — Macaulay, *Hist. of*

England, vol. iv. chap. xx. The Constitution of the United States not only sedulously separates the legislative and executive powers, by vesting them in separate and distinct departments, but expressly declares that "no person holding an executive office shall be a member of either House of Congress, during his continuance in office."

<sup>2</sup> Mr. Boudinot.

<sup>3</sup> Mr. Benson.



House resolved that the reports of the secretary should be in writing.<sup>1</sup>

The present occasion was deemed peculiarly favorable to a renewal of the experiment, as the secretaries of the treasury and war departments were represented to be in the situation of accused parties, and entitled, therefore, to the common privilege of appearing in their own defence. The proposition was warmly sustained, through two days' debate, not only by the mover, but by Mr. Ames, Mr. Gerry, Mr. Boudinot, Mr. Smith of South Carolina, and Mr. Lawrance of New York. It was as strongly opposed by Mr. Williamson of North Carolina, Livermore of New Hampshire, Clark of New Jersey, Tucker of South Carolina, and Madison, Venable, Giles, White, and Page of Virginia. From an imperfect contemporary report of the debate, we learn that Mr. Madison, in opening it, "objected to the motion on constitutional grounds, and as contrary to the practice of the House. He had not, he said, thoroughly revolved the matter in his own mind, and was not prepared to state fully the effects which would result from the adoption of the resolution. But he would hazard thus much, — that it would form an innovation in the mode of conducting the business of the House, and introduce a precedent which would lead to perplexing and embarrassing consequences; as it involved a conclusion, in respect to the principles of the government, which at an earlier day

<sup>1</sup> See Lloyd's Debates, vol. III. pp. 12, 13.

would have been revolted from. He was decidedly in favor of written information."

The proposition for the personal attendance and explanations of the secretaries was finally negatived; and a motion then made by Mr. Madison, to recommit the report to the committee that brought it in, was carried by a vote of thirty to twenty-two.

Some days later, a kindred question, which had been much discussed during the late session of Congress, was revived, and again gave rise to a warm and animated debate. The proposition then made was to call upon the secretary of the treasury for his "opinion of the best mode of raising supplies." The resolution now offered called upon him "to report a plan for the reduction of the public debt." The propriety of a reference to the secretary for this purpose, again brought up the consideration of the legitimate and independent functions and duties of the legislature itself, and of the true relations borne to it by the treasury department. Much of the ground occupied in the debate of the last session was again travelled over.<sup>1</sup> Mr. Madison's part in it on this occasion being preserved to us in a report published at the time, though evidently a very imperfect one, we cite from it a few extracts, as evincing the calm, dispassionate, and judicial spirit, as well as enlightened comprehension, with which he was wont to treat

<sup>1</sup> For a summary of the debate of the last session, see ante, chap. XLII. pp. 161-167.

questions of this sort, even in the midst of high party excitements.

The resolution was debated for three days by the leading members on each side of the House. According to the contemporary record referred to, on the first day of the debate,—

“Mr. Madison drew a distinction between the deliberative functions of the House and the ministerial functions of the executive powers. The deliberative functions, he conceived, should be first exercised, before the ministerial began to act. It should be decided by the House in the first instance, whether the debt should be reduced by imposing new taxes, or by varying the burdens, or by new loans. The fundamental principles of any measure should be decided in the House, perhaps even before a reference to a select committee.”<sup>1</sup>

On the last day of the debate, and at the conclusion of it, he again spoke; and his remarks are thus summed up by the reporter:—

“Mr. Madison closed the debate with a few powerful observations. He insisted that a reference to the secretary of the treasury, on the subject of loans, taxes, and provisions for the public debt, was in fact a delegation of the authority of the legislature, although it would admit of sophistical arguments to the contrary. The arguments which he had heard, he said, were not satisfactory to his mind; and he peremptorily denied that the plans of that officer came into the House in either an

<sup>1</sup> See *Annals of Congress* (Second Congress, 1791–1793), pp. 698, 699.



equitable or unbiassed manner. A plan coming from the Senate might fairly be styled constitutional, because it came unsupported by any labored train of argument, and left the House at liberty to exercise its judgment *pro* and *con.*; whilst those of the secretary were accompanied with elaborate reasonings, not on both sides, but on one side only. This, he insisted, was in opposition to Mr. Ames's doctrine. He concluded by declaring, that it was evident the secretary's plans were not introduced in such a way as to leave the House the freedom of exercising their own understandings in a proper constitutional manner."<sup>1</sup>

The House had been too long accustomed to lean upon the secretary of the treasury for financial and *all other* plans, now to assert its independence; and the resolution was adopted by almost the same vote that carried the resolution of the last session. On the following day,—the 22d of November, 1792,—another resolution was adopted without objection, calling on the secretary “to report the plan of a provision for the reimbursement of the loan made of the Bank of the United States, pursuant to the eleventh section of the act incorporating the subscribers to the bank.” The secretary, on the 3d day of December, submitted a report, embracing in one paper his answers to both of the foregoing resolutions. The report, being read, was ordered to lie on the table; and, on the 12th day of December, was referred to the consideration of a Com-

<sup>1</sup> *Idem*, p. 722.

mittee of the Whole House on that day fortnight. So much of the report as related to the reimbursement of the loan made of the Bank of the United States, was, on special motion, taken up six days afterwards, and referred to a *select* committee with instructions to report a bill for the purpose.

But the portion of the report relating to the redemption of the public debt, which had been supposed to be the primary and leading object of the report, was not called up by its professed patrons for consideration until the 11th day of February, — two months later, and only three weeks before the close of the session. It was then, after a slight discussion on that and the following day, quietly dropped, and not called up again during the session. From these and other circumstances, it was apparent that the redemption of the public debt was never meant to be seriously pursued, and was brought forward only for political effect. The secretary had, on a former occasion, dwelt with much complacency on the beneficial effects, as he considered them, of a national debt; and, on his recommendation, large portions of it had been made irredeemable for long periods of time. When, therefore, in his draught of the President's speech, he spoke of the adoption of effectual arrangements for the extinguishment of the public debt, as an object highly desirable in respect of "its intrinsic importance," as well as with a view to the general sentiment and wish of the nation, this language, on

his part, was but the politic profession of the statesman, not the sincere conviction of the man.

The actual condition of the country, indeed, at the time, engaged as it was in an expensive Indian war, which absorbed a large portion of the public resources, and without a dollar of surplus revenue at its command, rendered the moment most unpropitious for any practical scheme of redemption, however desirable the object undoubtedly was in itself. The plan submitted by the secretary was, on its own face, merely ostensible, — not real and practical. It provided none but the most trivial resource to be applied to the object for the present, — a tax estimated to yield about forty thousand dollars; and all the other resources were contingent and visionary, to be provided by future Congresses or not, as they might think proper, through a protracted period of nine years.<sup>1</sup>

The Republican party in the House, who sincerely favored, as they were strongly committed to, the policy of the earliest possible redemption of the public debt, saw at once that the plan brought forward was hollow and delusive; and so treated it. Mr. Madison, when the matter was first introduced into the House, declared that thorough and exact information of the financial condition of the government, which had not been furnished, must form the groundwork of any rational proceeding for the extinguishment of the debt; and afterwards,

<sup>1</sup> See report in American State Papers, vol. v., Finance, Part I., pp. 176-180.



when resolutions were offered, founded on the secretary's report, he pronounced them to be mere "*abstract* propositions," without practical value or efficiency.<sup>1</sup> The whole purpose of the secretary and his friends was answered, however, by throwing upon their political adversaries the responsibility of opposing a scheme, which *professed* to have in view the popular object of redeeming the public debt. That point gained, they abandoned, as we have seen, their own project, and gladly left it to its fate, attributing its failure to the Republican party. The Republicans on their part, as an indispensable preliminary, in their judgment, to any sound and rational system for the extinction of the debt, proposed a resolution, calling "on the commissioners for purchasing the public debt to lay before the House a statement of all their proceedings not heretofore furnished." This resolution was carried by a vote of thirty-nine to twenty-two; the leading and prominent supporters of the secretary of the treasury all voting against it.<sup>2</sup>

<sup>1</sup> See Annals of Congress (1791-1793), pp. 696 and 873.

<sup>2</sup> The *political capital*, to use a modern phrase, made by Colonel Hamilton and his friends out of his report, when they themselves had abandoned it, and their successful ingenuity in turning it to account for imputing to their adversaries hostility to the policy of redeeming the public debt, of which the latter were the special champions, give a strong corroborative support to the suspicion that party advantage con-

stituted the original and chief, if not sole, motive for bringing it forward. It is a striking illustration of the extent to which this political game was carried at the time, that a grave and distinguished contemporary historian should give the sanction of his high judicial name and character to the party interpretations of the day. "Those," he says, "who claimed the favor and confidence of the people for their watchfulness to prevent every accumulation of debt, were found in

The bill for the reimbursement of the loan made of the Bank of the United States was reported on the 21st, and taken up for consideration on the 24th, of December. The loan was of the sum of two millions of dollars, reimbursable in ten equal annual instalments of two hundred thousand dollars each, unless the government should think fit to refund it at an earlier period and in larger proportions. The plan reported by the secretary of the treasury contemplated the immediate reimbursement of the whole sum, by a loan to that amount abroad; and the first section of the bill reported by the committee authorized the President to cause to be borrowed a sum of two millions of dollars, at an interest not exceeding five per cent, to be applied to the reimbursement of the whole amount borrowed of the bank. The secretary in his report had suggested, that the benefit of the proposed arrangement to all parties would be promoted by applying the proceeds of any loans *previously obtained* to the immediate payment of the bank; and the sums so applied should be replaced out of the proceeds of the new loan, specially authorized for making the payment to the bank. A provision to

opposition to a system for its diminution, which was urged by men who were incessantly charged with entertaining designs for its excessive accumulation, in order to render it the corrupt instrument of executive influence." The learned chief-justice even deludes himself so far, notwithstanding the

proofs to the contrary afforded by the proceedings in Congress which we have cited above, as to speak of the secretary's plan as having been "earnestly pressed" by him and his supporters. — See *Marshall's Life of Washington*, vol. II. p. 245.

this effect entered also into the plan of the committee.

The fact came thus to be disclosed, that a considerable sum, proceeding from former loans, was lying in the treasury, unapplied to its proper objects. The question at once arose, how this had happened. The most plausible solution seemed to be, that, since the suspension of the King of France from his functions by the National Assembly, on the 10th of August, 1792, the government had thought it prudent, if not necessary, to suspend the payment of the debt due to that country; as there was no authority in existence, at the moment, representing the national authority, and competent to give a valid acquittance.<sup>1</sup> In this view of the subject, so long as there was no regularly constituted organ to represent the sovereignty of the French people, all the officers of the government concurred.

But after intelligence reached the United States of the assembling, on the 21st of September, 1792, of a national convention, invested with full power to act in the name and on behalf of the French people, the secretary of State, Mr. Jefferson, was decidedly of opinion, that the payments of the debt to France should be resumed and continued as before.<sup>2</sup> Colonel Hamilton, the secretary of the treasury, was opposed to this course; expressing the opinion, that, notwithstanding the abolition of

<sup>1</sup> See Mr. Jefferson's letter to Gouverneur Morris, 15th October, 1792, *Jefferson's Writings*, vol. III. p. 191.

<sup>2</sup> *Jefferson's Writings*, vol. IV. p. 473.



royalty by the convention, "if a restoration of the king should take place, no payment made in the interval would be deemed regular or obligatory;" and that we might be compelled to pay the debt over again, "as the actual governing power in France did not seem likely to be of long duration."<sup>1</sup>

In this state of things, and even long before, as afterwards appeared, the secretary of the treasury had drawn into the United States a considerable portion of the sums borrowed abroad to pay the debt due to France, and expressly appropriated by law to that purpose. He had also stopped all remittances from the United States destined to the same object; and from both of these sources had grown up the accumulated fund said to be lying dormant in the treasury, and which it was now proposed to apply temporarily to the reimbursement of the loan made of the Bank of the United States.

The moment at which this diversion was proposed to be made, of a fund solemnly pledged to the payment of the debt due to France, was one of the deepest and most critical interest in the fortunes of that country. The barbarous and infamous manifesto of the Duke of Brunswick, issued a short time before, had kindled a feeling of indignant sympathy throughout the United States for France. That ill-omened commander, at the head of a hundred and forty thousand Prussians, Austrians, and

<sup>1</sup> See the letter of Colonel Hamilton to the President, of 19th November, 1792, *Hamilton's Works*, vol. iv. p. 328.

Hessians, "breathing out threatenings and slaughter," had invaded the kingdom, and was marching steadily upon the capital. At such a moment, to withhold a fund justly due to an ancient ally, which might be essential to her salvation; and to apply it in aid of a moneyed institution, the special object of treasury benevolence, which could prefer no valid claim at the time to more than one-tenth of the amount proposed to be paid to it,—naturally awakened a strong and earnest opposition among the representatives of the people.

Mr. Madison spoke against it with a noble animation, inspired by an instinctive sense of justice and honor.

"There was not any necessity," he said, "for hurrying a decision on one part of the question,—respecting the propriety of borrowing at five per cent to pay off a debt at six,—that could be deliberated upon without precipitation. The other part of the question involved a very different subject, that of diverting a sum already appropriated for a particular purpose, and applying it to another,—the payment of the bank instalments by anticipation,—and that on no better foundation than the uncertainty of a new loan to replace the original appropriation. He could not see how gentlemen would be able to answer to their constituents for such conduct, especially if the sum so diverted was originally destined to satisfy the instalments of the debt due to France,—a debt of justice and gratitude. If such were its destination,—to pay a debt

which would go to the support of a glorious cause, the cause of liberty, — he wished it could be sent there on the wings of the wind.”

Afterwards, in the course of the same day’s debate, he said, —

“He was willing to admit of any explanation for a diversion of the appropriation of the former loan to pay our debt to France, except one. He would listen to any reason from the executive, but that which he had heard alleged, not in but out of Congress, — ‘that there would ever exist a possibility of paying the debt over again!’ This reason he could never admit; because, although it might be vainly argued that the present government of France had not arrived at a proper stage of maturity, yet it must be evident to all the dispassionate part of mankind, that the revolution was sufficiently established to insure it against the danger of a retrograde movement.”<sup>1</sup>

On a motion to amend the bill, by striking out “two millions of dollars,” and inserting “two hundred thousand,” there were twenty-seven ayes to twenty-six noes; but the speaker, Trumbull, then voting with the minority, produced a tie, and so the motion was lost.<sup>2</sup> The bill was then suffered to lie from the 27th of December to the 27th of February, when, full light having in the mean time been

<sup>1</sup> See *Annals of Congress* (1791–1793), pp. 757, 758.

<sup>2</sup> *Idem*, p. 760. Mr. Jefferson records that, on the day of this vote, the President warmly ex-

pressed to him his disapprobation of the sanction it gave to the proposed diversion of the fund for the payment to France. — *Jefferson’s Writings*, vol. iv. p. 475.



thrown on the subject by the inquiry instituted into the operations of the treasury department, a motion to strike out the first section, involving the original principle of the bill, was carried, *nemine contradicente*; and the whole frame of the measure was altered by simply authorizing the President to apply, out of a loan contracted for *domestic* purposes, the sum of two hundred thousand dollars to pay the first instalment only due to the bank. In that shape the bill passed without opposition.

The partial developments, made in the original discussion on this bill, with regard to the drawing into the United States, from time to time, of large portions of the loans made in Europe for the purpose of paying debts there, and especially the debt to France, excited great surprise and dissatisfaction, and stimulated a spirit of inquiry into the operations of the treasury. Resolutions were first adopted, calling for a "particular account" of the several loans made abroad; the terms on which each had been negotiated; the applications of the proceeds under the appropriations made by law; and the balances, if any, which remained unapplied. In answer to these resolutions, the secretary of the treasury, on the 4th day of January, 1793, communicated certain tabular statements, which appear not to have been as explicit and satisfactory to the House as was desired; and, on the 23d of the month, additional resolutions were adopted, on the motion of Mr. Giles, calling for further information, the necessity for which, he said, had grown

out of the imperfections or ambiguities of the returns first made. "Congress," he remarked, "had been legislating, for several years, without competent information of the state of the treasury; and it was now time, he conceived, that this information should be officially laid before the House."

In answer to these additional resolutions of the House, and similar ones adopted by the Senate, the secretary made, between the 4th and 19th of February, a succession of reports, six or seven in number; some of them highly controversial, and even inflammatory, in their tone. On the basis of the *facts* disclosed in these reports, Mr. Giles, on the 27th of February, brought forward a series of resolutions, declaring, among other things, that the secretary of the treasury had violated the law, by the applications he had made of certain foreign loans, destined exclusively to the payment of debts due abroad; that, in doing so, he had acted without the authority of the President, under whose special control those moneys had been placed; that he had omitted to discharge an essential duty of his office, in failing to give information to Congress, in due time, of the moneys drawn by him from Europe into the United States, commencing with December, 1790, and continuing till January, 1793; and that he disregarded the public interest, in making a loan of four hundred thousand dollars of the Bank of the United States, at five per cent, when a greater sum of public money was lying on deposit and unappropriated in the bank.

The resolutions of Mr. Giles were elaborately debated for two days: being warmly opposed by Mr. Smith of South Carolina, Mr. Murray, Mr. Boudinot, Mr. Lawrance, Mr. Sedgwick, and Mr. Ames; and sustained by the mover, by Mr. Madison,<sup>1</sup> Mr. Page, Mr. Mercer, and Mr. Findley. To enable the reader to form an intelligent judgment of the questions, whether of public interest or official propriety, involved in this important discussion, a brief recapitulation is necessary of certain acts of Congress and the proceedings under them. By the act, "making provision for the public debt," passed on the 4th of August, 1790, the President was authorized to cause to be borrowed a sum of money, not exceeding twelve millions of dollars, for the purpose of paying the interest and principal of the debt due abroad; and the proceeds of the loan were, by the terms of the act, "*appropriated solely*" to that purpose. We have already seen that the negotiation and management of this loan was placed expressly under the control of the Presi-

<sup>1</sup> Mr. Madison had, a few days before the discussion, given to his friend Judge Pendleton the following account of the general character of the facts elicited by the investigation into the secretary's conduct, and of the impressions which they made upon his mind:—

"You will have discovered from the newspapers, that a pretty interesting scrutiny has been started into the administration of the treasury department. The documents furnished show that there has been,

at least, a very blamable irregularity and secrecy in some particulars of it, and many appearances which require explanation. With some, suspicions are carried very far; others resolve the whole that is wrong into favoritism to the bank, &c.; whilst the partisans of the Fisc either see nothing amiss, or are willing to ascribe every thing that is so to venial, if not laudable, motives."—Manuscript letter of 23d February, 1793.



dent; a motion of Mr. Madison, to substitute "the President of the United States" for "the secretary of the treasury," to whom, in the first draught of the law, it was proposed to assign the duty, having been, upon full consideration, adopted by the House.<sup>1</sup> By another act, passed on the 12th day of August, 1790, "providing for the *reduction* of the public debt," the President was authorized to cause to be borrowed a further sum of two millions of dollars; to be applied, with other funds, to the purchase of the *domestic* debt of the United States, under certain prescribed regulations and restrictions.

The President, in execution of the trust committed to him by both of the aforesaid acts, on the 28th of August, 1790, by a formal commission or power of attorney, authorized the secretary of the treasury to negotiate a loan or loans to the aggregate amount of fourteen millions of dollars, under the provisions and subject to the limitations of the two recited acts. On the same day, he gave written and detailed instructions to the secretary, as to the manner in which he was to execute and provide for the objects of the power delegated to him. He was specially instructed to borrow, on the best terms practicable, such sum or sums as shall be sufficient to discharge the instalments, as well as interest, of "the *foreign* debt," payable to the end of the year 1791; and to apply the proceeds, "with all convenient dispatch," to the payment of "the

<sup>1</sup> See Annals of Congress (1789-1791), p. 1639.

said debt." The instructions further directed the secretary not to extend the amount of the loans beyond the sums necessary to pay the principal and interest of the foreign debt down to the close of the year 1791, unless the residue of the debt could be purchased on terms more advantageous to the United States than those on which it then stood ; and, in this latter case, the proceeds of the additional loan were to be applied to the residue of the said foreign debt, so far as it could be purchased on terms of advantage to the United States.

These were the only instructions of the President which were communicated to the House in answer to the call made "for the authorities under which loans were negotiated pursuant to the acts of the 4th and 12th of August, 1790, together with the authorities directing the application of the moneys borrowed ;" and they plainly contemplated a loan for the discharge of the *foreign* debt, and directed the application of the proceeds exclusively to the payment of the *foreign* debt. It appeared, nevertheless, and the fact could not be disguised by the reports of the secretary, that a very large portion of the loans negotiated under these instructions had been drawn into the United States, and applied to *domestic* purposes.

The defence attempted to be set up by the secretary's friends was, that the loans had been negotiated, without distinction, under the acts of the 4th and of the 12th of August ; and as the latter act had in view a domestic application of the loan

which was provided for by it, its sanction was claimed for the conduct of the secretary in drawing into the United States, and using for domestic purposes, so much of the moneys borrowed as had received that application.<sup>1</sup> But even if this argument were well founded in principle, as Mr. Madison, we shall see, contended it was not, it extended only to two millions of the sums borrowed, that being the express limitation of the loan authorized by the act of the 12th of August for domestic purposes; while, in point of fact, four millions of dollars, within a very small fraction,<sup>2</sup> had been drawn into the United States by the secretary, which, after deducting every portion of it that could be alleged to have been used here on foreign account, left a large excess beyond the sum of two millions.

The secretary himself, as if perfectly aware that this defence could not avail him, resorted in one of his reports to considerations of a very different, and dangerous and latitudinous, character, to justify his proceedings. He laid it down as a maxim, that "every prudent administration of the finances" should have at all times a disposable sum of at least half a million of dollars in the treasury, to

<sup>1</sup> This seems to be the chief ground of the apology so studiously made for the conduct of the secretary of the treasury by a distinguished contemporary historian. — See Marshall's *Life of Washington*, vol. II. p. 246.

<sup>2</sup> The precise sum drawn into the United States is shown by the report of the committee, which was raised the following year (1794) for the express purpose of inquiring into these transactions, to have been \$3,990,523. — See *American State Papers*, vol. v., Part I. p. 293.



meet contingencies ; and he even alleged as a reason for the "*latitude of drawing*"<sup>1</sup> he had indulged, his own individual opinion of the expediency of placing within the reach of the legislature a portion of the foreign loans, for the reimbursement of the debt which would soon fall due to the bank of the United States, and for which no domestic fund had been provided. These were reasons gravely, however presumptuously, put forward by the secretary for diverting public moneys from an appropriation to which they stood solemnly pledged by an act of the legislative authority ! He boldly set himself free from all such ignoble fetters, though imposed by the Constitution itself, by a lofty and flippant profession of a superior public spirit, as in the following passage of one of his reports to Congress : "If a doubt had occurred about the strict regularity of what was contemplated, a mind sufficiently alive to the public interest, and sufficiently firm in the pursuit of it, would have dismissed that doubt as an obstacle, suggested by a pusillanimous caution, to the exercise of those higher motives which ought ever to govern a man invested with a great public trust."<sup>2</sup>

With such avowals as these in the face of Congress, the reader will not be surprised at the strong language used by a member of the House, who bore a distinguished part in the discussions on the occa-

<sup>1</sup> This was the language of the secretary himself. — See his report referred to below.

<sup>2</sup> Report of the secretary of the treasury, 13th February, 1793. — See Am. State Papers, *ut supra*.

sion, in characterizing the conduct of the secretary. "The exercise of the power assumed by the secretary," he said, "was inconsistent with that public confidence upon which alone the government is founded: it was inconsistent with public safety and a government of laws. The secretary seemed to take the whole government upon his shoulders, and to consider all the great interests thereof committed to his providence. His reports spoke the language of a Frederick of Prussia, or some other despotic prince, who had all the political powers vested in himself, — not the language of a responsible minister under a free and well-ordered government."<sup>1</sup>

Of the speeches made in the course of the debate, none will arrest the attention of the reader, whose curiosity may lead him to look back into the history of this interesting proceeding, so forcibly as that of Mr. Madison, which was distinguished by a clearness and cogency of reasoning, a firmness, yet decorum, of tone, an earnestness of conviction, a vivacity and energy of expression, that combined to make it a model of chaste parliamentary eloquence, as well as an irresistible demonstration of the truth of the positions maintained by him.

Adverting to the instructions of the President, which accompanied his power of attorney to the secretary, he says: —

"By this formal act, issued along with the commission to the secretary, the President designated

<sup>1</sup> Speech of Mr. Findley, *Annals of Congress* (1791-1793), pp. 922, 923.

the object to which the loans to be made were to be applied ; and, by declaring the object to be that provided for by the act of the 4th of August, 1790, he expressly placed the loan under the authority and provisions of that act : so that the moment the money should be borrowed, it was to stand legally appropriated to its specified object, — as much so as if another law, authorizing another loan for another purpose, had not existed. This arrangement of the President was the more proper, not only because provision for the payment of the foreign debt had been the primary object of the legislature, and the payment of the French debt the anxious wish of their constituents, but because payments to France were no longer matter of option, but of strict and positive obligation on the part of the United States.”

He then showed, that, in consequence of the diversions made by the secretary of this fund from its legal appropriation, there remained unsatisfied of the instalments due to France, at the end of the year 1791, the sum of one million, four hundred and forty-two thousand dollars ; and, at the end of the year 1792, six hundred and ninety-eight thousand, four hundred and eighty-five dollars. He demanded —

“ In what manner had this trust [delegated by the President to the secretary] been carried into execution ? It was to be observed with regret, that, on the very day on which the commission and instruction were issued from the President, the sec-



retary commenced his arrangement for diverting a part of a loan, accepted and ratified by virtue of his commission, to a purpose different from that specified and required by his instruction. That a fact of so extraordinary a complexion might be grounded on the most unexceptionable proof, Mr. Madison said he should take the liberty of supporting it by the authority of the secretary himself." He here read an extract of the secretary's report, and proceeded. "The aspect here presented by a comparison of the several documents was singular and remarkable. The subordinate officer appeared in direct opposition to the chief magistrate. The agent was seen overruling, by his own orders, the orders of the President. The language of the President was, 'By virtue of the power vested in me by law, I destine the money to be borrowed to the discharge of the instalments and interest of the foreign debt.' The language of the secretary was, 'I destine a part of the money only to that purpose, and a part to be brought to the United States for other purposes.' He left every member to make his own reflections on the subject. He would only observe, in general, that it demonstrated the truth asserted in the resolution, that the secretary had violated both the law of August 4th, 1790, and the instructions of the President relating to it."

After some remarks on the obligatory force of legislative appropriations, in which he said, "appropriations of money were of a high and sacred character: they were the great bulwark which the

Constitution had carefully and jealously established against executive usurpations," he recurred to the special object of the appropriation of the loan authorized by the act of the 4th of August, 1790.

"If there was no evident *necessity*," he said, "for this proceeding [the diversion of the proceeds of the loan], it was the more to be lamented, that, whilst we were everywhere sympathizing with our allies in their arduous struggles for liberty, and echoing from every part of the Union our congratulations and good wishes, the pecuniary succors, so critically necessary to their cause and the most substantial proof of the sincerity of our professions, should be silently withdrawn across the Atlantic from the object for which they were intended, — succors, too, which were not merely a tribute of gratitude, of generosity, or of benevolent zeal for the triumph of liberty, but a debt, moreover, of strict and positive obligation, for value received and acknowledged. In contemplating the subject in this point of view, he felt a pain he could not easily express, and to which, he persuaded himself, the breast of no member could be a stranger."

The secretary of the treasury was one of the few American citizens who seemed never to have sympathized with the struggle of the French people for liberty. The interests of the Bank of the United States, and of the holders of the public funds, appear at this time to have engaged far more of his sympathy and attention. Of the drafts of foreign loans into the United States since the 16th of

April, 1792, Mr. Madison stated “that the proceeds now in the *bank*, or payable into it before the first of April next, amount to one million, two hundred and twenty thousand, four hundred and seventy-six dollars.”

“If,” said he, “the drafts had received every requisite sanction; if they had been produced by the most justifiable causes, — the existence of this sum, in a situation so different from what was contemplated, was a fact which the representatives of the people had a right to know, which it was important to them and their constituents that they should know, and which it was the indispensable duty of the officer charged with it to have made known. This omission was the more remarkable, when considered in relation to the measure of paying off at once the whole sum of two millions of dollars, payable to the bank by instalments in ten years. A bill for this purpose had been introduced, and was on its passage: the object of it had been patronized by a report of the secretary not long since made. In one of his last reports he expressly states, among the inducements to such extensive drafts of money from Europe, that they were made ‘with an eye to placing within the reach of the legislature’ the means necessary for this object. Was it not extraordinary, — was it not unaccountable, — that so important a measure should be recommended and be actually introduced, and that money otherwise appropriated in Europe should be transferred to this country and deposited



in the bank, in order that it might be within the reach of being applied by the legislature to that measure; and yet that no disclosure should be made to the legislature of the fact that the money was so drawn, and lay at the bank, within their reach, to be so applied?"

The secretary had alleged, in excuse, that *no call* had been made on his department, which rendered it proper to exhibit a general view of the public moneys on hand. To this Mr. Madison pungently and justly replied, —

“If *liberty could be taken* of removing money from Europe, where it stood appropriated by law, to this country, where there was no legal object that required it; and with an eye, as was said, to an object to which no money was applicable without the authority of the legislature,—how could it possibly be supposed improper to take the FURTHER LIBERTY of communicating what was done to the legislature?"<sup>1</sup>

In this discussion, from the very nature of it, was involved a question of great delicacy as between the President and the secretary of the treasury. The secretary himself had alleged no other instructions from the President, respecting the application of the loans, than those which accompanied the original commission to negotiate them. He was understood, indeed, to contend that no special authority from the President was necessary to justify any

<sup>1</sup> See the whole of this powerful and conclusive speech, in *Annals of Congress* (1791-1793), pp. 934-945.

application he had thought proper to make of them; as there resulted to him, from the nature and constitution of his office, a general control over the application and disbursement of public moneys for the purposes designated by law.<sup>1</sup> On the other hand, it was contended, with manifest reason and justice, that as the negotiation and management of these loans had been expressly placed, by the act of Congress providing for them, under the immediate control of the President, the secretary could properly make no application of their proceeds without the previous authority of the President. It was also contended, with equal reason, that as the resolutions of the House, calling for information, expressly required the communication of "the authorities directing the application of the moneys borrowed," as well as the authorities under which the loans had been negotiated; and as no other authorities from the President to the secretary had been communicated to the House, in answer to its call, but those of the 28th of August, 1790,—the inference must be, that none other existed.

The friends and apologists of the secretary, without formally abandoning the ground on which he was understood to insist respecting the inherent rights of his office, argued at the same time that other and more special instructions from the Presi-

<sup>1</sup> See the pretensions of the secretary, as set forth by himself, in the report of the committee of the House of Representatives of the

22d of May, 1794, American State Papers, vol. v., Finance, Part I., pp. 290, 291.

dent were to be "presumed;" and efforts were made to show, from collateral sources, that the President had been privy to and sanctioned all the proceedings of the secretary with regard to the application of the loans. To this Mr. Madison answered,—

"It was not to be supposed that the secretary, if he had received further authorities or instructions, would have failed to produce them, or to refer to them, in justification of his conduct. Far less could it be presumed, that the President, if he had given any superseding authorities or instructions, would not have caused them to be communicated to the House, or that he would have suffered a partial communication to mislead the House into an error as to so important a fact. The President was the last man in the world to whom any measure whatever of a deceptive tendency could be credibly imputed."

The insinuation, however, of further instructions, and the adroit device to enlist on the side of the secretary the respect universally felt for the character of Washington, by the argument, that, if the secretary had been guilty of misconduct, the President himself, as his official superior, was constitutionally responsible,<sup>1</sup> produced the intended effect; for, in spite of the conclusive demonstration of the illegality of the secretary's proceedings, the resolutions condemning them were negatived by an im-

<sup>1</sup> See speeches of Mr. Smith of South Carolina, and Mr. Boudinot, in *Annals of Congress*, 1791-1793, pp. 910-918, and 948-955.



mense majority, the highest vote in favor of any one of them being fifteen. Mr. Jefferson, in a memorandum of contemporaneous date, accounts for this extraordinary result in the following manner: —

“Mr. Giles,” he says, “and one or two others, were sanguine enough to believe that the palpableness of these resolutions rendered it impossible that the House could reject them. Those who knew the composition of the House, — 1. Of bank directors; 2. Holders of bank stock; 3. Stock-jobbers; 4. Blind devotees; 5. Ignorant persons, who did not comprehend them; 6. Lazy and good-humored persons, who comprehended and acknowledged them, yet were too lazy to examine, or unwilling to pronounce censure, — the persons who knew these characters foresaw, that, the first three descriptions making one-third of the House, the three latter would make one-half of the residue, and of course that they would be rejected by a majority of two to one. . . . There were not more than three or four who voted otherwise than had been expected.”<sup>1</sup>

The additional explanation we have given above, of the causes which led to the singular and extraordinary vote of the House, derives every color of probability from circumstances of subsequent occurrence, which we proceed now to detail. Justice to the honorable and manly part borne by Mr. Madison in the proceeding, and the reverential respect due to the character of Washington, demand

<sup>1</sup> See Jefferson's Writings, vol. iv. p. 491.

that we should follow the story to its sequel. That the President disapproved of the extent to which the secretary of the treasury had drawn moneys from Europe into the United States, and of the diversion made of a large portion of these sums from the object to which they stood appropriated by law, when his attention was properly directed to the subject and he was made aware of the real state of the facts, there cannot be the slightest doubt. We have already seen, that, in a conversation with Mr. Jefferson, he had expressed in the strongest terms his disapprobation of the attempt made by the bill for the reimbursement of the bank loan, to divert from its legitimate application any portion of the funds dedicated to the payments to France.<sup>1</sup> Even if there were no positive proof of his sentiments on this subject, his habitual and scrupulous regard for the declared will of the legislature, and for the obligations of public faith, would alone be a sufficient voucher of what they were.

With these sentiments clearly and strongly fixed in his mind, he was wholly unconscious that he could ever have been surprised into giving the least appearance of sanction to the proceedings of the secretary arraigned by the resolutions before the House. After those resolutions had been acted upon, however, it appears that Colonel Hamilton caused it to be intimated to the President, that he had in his possession a letter from him, written while on his journey in the South, in the spring of

<sup>1</sup> See ante, p. 283, — the note there.

1791, giving his sanction to some of the transactions in question; and this letter, it was not improbable, had been privately shown to some members of the House, during the pendency of the discussion, to influence the vote upon the resolutions. The following account of the incident here referred to is given in a letter of the 8th of August, 1811, to Mr. Madison, from Mr. Edmund Randolph, who was, at the time of the occurrence, attorney-general of the United States, and as such a member of Washington's cabinet:—

“Giles's resolutions had been defeated, before Colonel Hamilton suggested, through one of his indirect conduits to the ear of the President, that, during his tour in the South, he had sanctioned by two letters [there were two letters of Colonel Hamilton to the President, but only one from the President in reply] the measure which was so severely criminated. The President mentioned the circumstance to me with surprise and passion, declaring, in the most excluding terms, that he never did write, or cause to be written, letters to that purport. Some days afterwards, Colonel Hamilton put them into the President's hands; and by him they were communicated to me, with an instruction to write to Colonel Hamilton, avowing them. This I did; and it would seem impossible that upon a subject, on which his sensibility was so much kindled, that a document of justification should have been laid aside as a private paper. These facts are most distinctly recollected.”



The letter of the President, here referred to, was in answer to two letters of Colonel Hamilton, dated respectively the 10th and 14th of April, 1791, informing him of the negotiation of a loan in Holland of two millions and a half of guilders, of which he destined one-half, or perhaps one million five hundred thousand guilders, to the use of France, and the residue to the purchase of the public debt here; and that, with the concurrence of the other heads of departments, and of the Vice-President, he had instructed Mr. Short to open a new loan for three millions of guilders. To these two letters the President, being then in the hurry and bustle of his tour to the South, sent the following brief answer from Charleston, S.C., dated the 7th of May, 1791: —

SIR, — I have received your letters of 10th and 14th of last month. Concluding from Mr. Short's statement of his negotiation in Amsterdam, and from the *opinions offered in your letter* of 10th ultimo, that the loan has been obtained on the best terms practicable, and that its application in the manner you propose will be most advantageous to the United States, I do hereby signify my approbation of *what has been already done, as communicated to me* in your letters of the 10th and 14th of April. Assenting to the further progress of the loans, as recommended by you in these letters, I request that instructions may be given for completing them agreeably thereto.

I am, sir, your most obedient servant, G. W.

It is evident from the face of this letter that it was written in great haste, and under circumstances

which precluded all investigation of any questions that might arise as to the legal warrant for *what had been done*; and was founded upon the frank and liberal confidence which the President is often obliged to repose in the *opinions* of his official advisers. Such being plainly the hurried and unpremeditated, as well as confiding, character of the letter, and at the same time its insufficiency to cover the various operations of the secretary in the matter of the foreign loans, it is not surprising that he should have felt grave scruples as to either the propriety or expediency of producing it before the House, when the resolutions of Mr. Giles were under consideration.

But when, at the ensuing session of Congress, the special committee, raised to inquire into the condition of the treasury, and more particularly into these transactions, overruled the secretary's claim of an inherent power, by virtue of his office, to direct all the applications of the public money, and required him to "state by *what authority* any portion of the moneys borrowed abroad had been drawn to the United States," he produced before the committee the letter of the President given above; and also stated, in general, that, "from time to time, he had submitted the disposition of each loan to the consideration of the President, with his reasons for such disposition, and to obtain the sanction of the President previous to carrying it into effect, which was always had." The committee requested, that this statement of the secre-

tary, together with the papers accompanying it, "touching the point of *authority* under which moneys borrowed abroad have been drawn to the United States, should be presented to the President; and that the secretary should obtain from him such declaration concerning the same, as the President may think proper to make."<sup>1</sup> On the communication of the secretary's statement to the President, the President addressed to him, on the 8th of April, 1794, the following note for the information of the committee:—

SIR,—I cannot charge my memory with all the particulars which have passed between us, relative to the disposition of the money borrowed abroad. Your letters, however, and my answer, which you refer to in the foregoing statement, and have lately reminded me of, speak for themselves, and stand in need of no explanation. As to verbal communications, I am satisfied that many were made by you to me on this subject; and, from my general recollection of the course of the proceeding, I do not doubt that it was substantially as you have stated in the annexed paper, and that I have approved of the measures which you from time to time proposed to me, *upon the condition that what was to be done by you should be agreeable to the laws.*

I am, sir, your most obedient servant,

G. WASHINGTON.

This note proved very unsatisfactory to the secretary; and he addressed to the President a letter of mingled complaint and deprecation. He began by

<sup>1</sup> See the report of the committee, with all the papers here referred to, in *American State Papers*, vol. v., *ut supra*.



saying, "I have analyzed the declaration which you have been pleased to make upon the copy of the paper of the 1st instant, and find that the terms used are such as will enable those who construe every thing to my disadvantage to affirm that 'the declaration of the President has entirely waived the main point, and does not even manifest an opinion that the representation of the secretary of the treasury is well founded.' To this it would be added, that the reserve of the President is a proof that he does not think that representation true; else his justice would have led him to rescue the officer concerned, even from suspicion on the point. That this will be the interpretation put upon your declaration, I have no doubt; and, in justice to myself, I cannot forbear to make this impression known to you, and to bring the declaration again under your revision."

He then stated, "I have learned, from an authentic source, that a particular gentleman, supposed to possess good opportunities of information, has intimated, in a manner to induce a belief of its having come from you, that it never was your intention that any of the loans which were made should have reference to the act [of the 12th of August, 1790] making provision for the reduction of the public debt, and you never knew any thing of the operation while it was going on. Under all that has happened, sir, I cannot help entertaining, and frankly expressing to you, an apprehension that false and insidious men, taking advantage of the want of

recollection, which is natural where the mind is habitually occupied with a variety of important objects, have found means, by artful suggestions, to infuse [into your mind] doubts and distrusts very injurious to me."

After some other remarks of the same tenor, he adds, "Not seeking to escape responsibility for any improper execution of the laws, if any has happened, I did not imagine that want of immediate authority from the President to do what they would justify would be suffered to remain—the appeal being made to him—a topic of objection to my conduct."

Notwithstanding this renewed and somewhat importunate appeal to the President, he did not, in any respect, modify the declaration which the secretary "brought under his revision;" nor did he disclaim the interpretation which the secretary said "its terms" would cause to be put upon it, or disavow any of the unfavorable impressions or doubts or distrusts which the secretary supposed had arisen in his mind with regard to the transactions in question. In the serene majesty, the elevated justice, and conscious integrity of his character, he remained silent and inflexible; and his unrevoked declaration, with the secretary's interpretation of it undisclaimed by him, must be considered as the President's final and authentic manifesto to the world, that he had never authorized any operations of the treasury for diverting public moneys from the object to which they stood appropriated by law,

and that he still firmly and resolutely withheld his sanction from all measures of the secretary of that description.<sup>1</sup>

During the session of Congress, which was now drawing to a close, many subjects of legislation were introduced, and partially discussed; but none of special importance received the definitive action of the two Houses. The minds of members were much pre-occupied by the inquiry that had been going on into the official conduct of the secretary of the treasury; and there seemed also to be a general disposition to remit all questions of a permanent, national character to the next Congress, in which there would be a fuller and more equal representation of the people, founded upon the new census. A lively and graphic contemporary writer, himself a distinguished member of Congress, and of zealous Federal politics, wrote near the end of the session, "This will be a *do-little* session. What we fall short in work, we make up in talk. . . . The next session will be the *pitched battle* of parties," when, he added elsewhere with bitter deprecation, "the host of the South will come up to trample down the labors of the two first Congresses."<sup>2</sup>

An extraordinary duty was devolved by the Constitution on this Congress, — that of opening and

<sup>1</sup> Mr. Madison, in a letter of 12th April, 1793, to Mr. Jefferson, six weeks after the termination of the debate on Giles's resolutions, says, "I suspect the President may not be satisfied with the aspect under which that [the application

of the foreign loans] and other parts of the fiscal administration have been left."

<sup>2</sup> Life and Correspondence of Fisher Ames, vol. i. pp. 124, 126, 128.



counting the votes given by the several States for President and Vice-President, and declaring the result. The election had taken place in December, 1792; and the two Houses now met together in the Senate chamber, on the 13th of February, 1793, for the purpose of opening the certificates of the votes, which, according to the Constitution, were to be transmitted, sealed, to the seat of government, directed to the President of the Senate. The result, as anticipated, was the unanimous suffrage of all the States, amounting to one hundred and thirty-two electoral ballots, for Washington as President. For Vice-President, Mr. Adams received seventy-seven votes, George Clinton fifty, Thomas Jefferson four, and Aaron Burr one. The entire State votes of New York, Virginia, North Carolina, and Georgia, with one electoral ballot from Pennsylvania, were given for Governor Clinton; the vote of Kentucky, four ballots, for Mr. Jefferson; and one ballot from South Carolina for Colonel Burr. The state of the vote for Vice-President showed the growing division of political parties, and their geographical advance in the United States. Mr. Adams, by the strong bias of his theoretical opinions on government, which had become more generally known since his election to the Vice-Presidency, as well as by the character of his *casting-votes* in the Senate, had lost much of the favor which the great merit of his revolutionary services had at first gained for him with the Republican party; and in the same proportion he

had advanced in the favor and confidence of the Federalists.

Colonel Hamilton, departing from the coldness and even dislike he had manifested towards the aspirations of Mr. Adams in the first election, now became his zealous advocate and active electioneer. To one friend he writes, "Mr. Clinton's success I should think very unfortunate. I am not for trusting the government too much into the hands of its enemies. . . . I have hitherto scrupulously abstained from interference in elections; but the occasion is, in my opinion, of sufficient importance to warrant in this instance a departure from that rule." To another he says, "Either Governor Clinton or Mr. Burr is to be run in this quarter as Vice-President, in opposition to Mr. Adams. . . . It will be a real misfortune to the government if either of them should prevail. . . . Mr. Adams, whatever objections may lie to some of his theoretic opinions, is a firm, honest, and independent politician." To a third he repeats, "Mr. Adams is the man who will be supported in the Northern and Middle States by the friends of the government. I do not scruple to say to you, that my preference of Mr. Adams to either of these [Clinton or Burr] is decided."<sup>1</sup> In these sentiments, all the distinguished leaders of the Federal party, Mr. Jay, Mr. King, Mr. Ames, and others, expressed an earnest sympathy and concurrence.<sup>2</sup>

<sup>1</sup> See Hamilton's Works, vol. v. pp. 527, 532-535.

<sup>2</sup> Idem, pp. 526, 542; and Life and Works of Ames, vol. i. pp. 123, 125.

The sentiments of the Republican party, with regard to the election of Vice-President, are shown also by contemporaneous revelations from their leading statesmen. Mr. Jefferson, in a letter to Mr. Pinckney, American Minister at London, of the 3d of December, 1792, while the result of the election was yet unknown, says, "The occasion of electing a Vice-President has been seized as a proper one for expressing the public sense on the doctrines of the monocrats. There will be a strong vote against Mr. Adams; but the strength of his personal worth and his services will, I think, prevail over the demerits of his political creed."<sup>1</sup> So, too, Mr. Madison, in writing to Judge Pendleton from Philadelphia, on the 6th December, 1792, says, —

"The election of a Vice-President has excited in this quarter considerable animation, and called forth comparative portraits of the political characters of Mr. Adams and Governor Clinton, the only candidates brought into the field. The former has been exhibited in all its monarchical features; and the latter, in the anti-federal colors it wore in 1788. There are not sufficient data here to calculate with certainty the event of the contest. The probability is rather favorable to Mr. Adams, but not in such a degree as to prevent pretty keen apprehensions among his friends. As the opposition is levelled entirely against his political principles, and is made under very great disadvantages, the extent of it,

<sup>1</sup> Randall's Life of Jefferson, vol. II. p. 104.



whether successful or not, will satisfy him that the people at large are not yet ripe for his system."

Mr. Madison was not mistaken as to the awakened and growing sentiment of the nation; and an opposition had now commenced, which, as we shall see in the further progress of this narrative, advancing gradually and steadily, as all salutary and stable revolutions do, and gaining successively one State after another, led, in two presidential cycles more, to a long and uncontested ascendancy of the Republican party, under its wise and able leaders, in the public councils of the country.

## CHAPTER XLVII.

Relations with England and France — Political Parties divide more openly upon them — Persevering Refusal of England to fulfil Treaty of Peace — Her Adherence to Commercial Restrictions — Impression of American Seamen — Friendly Dispositions of France — Increasing Sympathy of American People in her Struggle for Liberty — Excesses of French Revolution occasioned by Unjustifiable Violence of the Coalition — War declared between England and France — Danger of the United States being drawn into it — Proclamation of the President — Deliberations of the Cabinet — Opinions of Mr. Madison — Colonel Hamilton proposes Renunciation of Treaties with France — His Views opposed by Mr. Jefferson — Overruled by the President — New French Minister, Genet, arrives in the United States — Demonstrations of Popular Enthusiasm — Letter of Mr. Madison — Character of Genet — His Reception by the Government — Declarations of Liberal and Friendly Policy in Name of French Republic — Unpleasant Questions arise from Imprudent and Intemperate Conduct of the Minister — Discussions between him and Secretary of State — His Conduct in the case of “Le Petit Democrat” — His Recall at length requested — Followed by Request for Recall of American Minister at Paris — Hostile Conduct of the British Government — Violations of Flag and Neutral Rights of the United States by its Authority — Indignant Feeling kindled by these Acts — Unfounded Extenuation of them by Political Writers — Judge Marshall — Colonel Hamilton writes Series of Controversial Articles, under Title of “Pacifcus,” Hostile to France, and broaching Dangerous and Unconstitutional Doctrines as to Powers of the Executive — Answered by Mr. Madison under Historical Name of “Helvidius” — Ability of Answer — Close of the Controversy — No Effort at Reply made by Colonel Hamilton.

WE have now arrived at a period when the foreign relations of the United States, particularly the

relations with Great Britain and France, entered more largely and more openly into the controversies of the two great political parties of the country. It becomes necessary, therefore, to resume the history of those relations from the point at which we left them in a preceding part of this narrative.<sup>1</sup> The government of Great Britain had, as we have seen, from the moment of the termination of the Revolutionary war, given cause of great dissatisfaction to the United States, by a persevering refusal to execute a most vital article of the treaty of peace, with regard to the prompt evacuation of all military posts held within their limits ; and also by the adoption of very unequal, injurious, and oppressive regulations respecting the commercial intercourse of the two countries. When, in the autumn of 1791, Mr. Hammond arrived in the United States as the Minister of Great Britain, hopes were conceived of an early removal of these grounds of complaint, by means of a candid and amicable discussion of the questions at issue.

The correspondence between him and the American secretary of State, Mr. Jefferson, commenced in November, 1791 ; and was opened, on the part of the latter, by requesting explanations of the intentions of the British court, both with regard to the execution of the treaty of peace, and the future intercourse of commerce. In setting forth the breaches of treaty complained of, Mr. Jefferson

<sup>1</sup> See ante, chap. XLII. p. 188.



mentioned as many as eight posts,<sup>1</sup> within the territorial limits of the United States, from which British garrisons had not yet been withdrawn, and in the vicinity of which British officers exercised a jurisdiction over both country and inhabitants, and excluded citizens of the United States from navigating "the rivers and lakes established as the boundary between the two nations," even on the American side of the middle line of division.

Mr. Hammond answered, as his government had done before, by pleading alleged non-compliances with the treaty on the part of the United States. All these allegations, after a most careful and minute research of facts, — an investigation which consumed several months, as the alleged non-compliances related to the separate action of the individual States, — were reviewed in a most able and elaborate reply of Mr. Jefferson, dated the 29th of May, 1792, and were shown to be wholly destitute of foundation, either in principle or fact. Mr. Hammond, on the 2d day of June, acknowledged the receipt of this reply, which, he said, "he should transmit without delay to his court, for the consideration of His Majesty's Ministers." More than a year elapsed without any further answer by the British Minister, when the President, naturally chafed by the delay,<sup>2</sup> instructed the secretary of

<sup>1</sup> These were Michilimackinac, Detroit, Fort Erie, Niagara, Oswego, Oswegatchie on the St. Lawrence, Point-au-fer and Dutchman's Point on Lake Champlain.

<sup>2</sup> See the note of the President to the secretary of State, in Sparks's Washington, vol. x. p. 348.

State to write to him, to know when an answer might be expected. In his note to the Minister, which was of the 19th of June, 1793, Mr. Jefferson said, "The delay has now become such as naturally to generate disquietude. The interests we have in the Western posts, *the blood and treasure which their detention costs us daily*,<sup>1</sup> cannot but produce a correspondent anxiety on our part. Permit me, therefore, to ask when I may expect the honor of a reply."

Mr. Hammond answered on the following day, by informing Mr. Jefferson, that, on the receipt of his note of the 29th of May, 1792, in England, His Majesty's principal secretary of State had written to him that it would be taken into immediate consideration, and, after it had been thoroughly examined, further instructions should be given in relation to it. These instructions, which he daily expected, had been delayed, he presumed, in consequence of the very interesting events that had occurred in Europe since the receipt of Mr. Jefferson's note.

We shall hereafter see, that, down to the end of the current year, no instructions had yet been received by Mr. Hammond relative to a paper, the unanswerable character of which, doubtless, constituted the true explanation of the delay that had taken place,—a delay which was destined to be indefinitely prolonged, for no attempt was ever made to over-

<sup>1</sup> Mr. Jefferson here alluded to the Indian war in which the United States was then involved, and be-

lieved to have its origin in the encouragement derived from the neighboring British garrisons.

throw the solid array of arguments and facts presented by Mr. Jefferson. With regard to a commercial arrangement, Mr. Hammond was compelled, when pressed by Mr. Jefferson's persevering inquiries, to admit that he was without any commission or powers to conclude such an arrangement.<sup>1</sup> This exhibition of haughty indifference, and of high-handed injustice and wrong, was crowned by the wanton impressment of American seamen from on board American vessels, both at sea and in port; an outrage of which no similar example had ever before been given in the intercourse of civilized and independent nations.

Such was the offensive, if not absolutely hostile, attitude of Great Britain towards the United States. Far different, both in form and spirit, were the relations existing between France and the United States. The treaty of amity and commerce, of the 6th of February, 1778, and the treaty of eventual alliance of the same date, had bound the two nations together by the most intimate ties of friendship and reciprocal correspondence; and those bonds still subsisted in all their pristine influence and force. The feelings of gratitude and attachment nourished in the minds of the American people, by the remembrance of the generous and fraternal assistance which France had given them in their unequal contest for independence, were also quickened, and elicited in warm returns of

<sup>1</sup> Compare his notes of 30th November, and 6th and 14th December, 1792, in Waite's *State Papers*, vol. i. pp. 212-215.



national sympathy and good wishes, by the death-struggle in which France herself was now engaged in vindication of her liberties. Nor were these feelings confined to the popular breast alone. They were embodied in solemn acts of the public authorities.

When the acceptance of the Constitution of 1791 by the king was made known by the king himself in a letter to the President, and by the President laid before Congress, the House of Representatives, on the 10th day of March, 1792, upon the motion of Mr. Madison, adopted a resolution, expressing "the sentiments of high satisfaction" with which they received the intelligence, and requesting the President, in his answer, to signify "the sincere participation of the House in the interests of the French nation on this great and important event;" and added "their wish that the wisdom and magnanimity displayed in the formation and acceptance of the Constitution may be rewarded by the most perfect attainment of its object, — the permanent happiness of so great a people." The first part of the resolution passed by an almost unanimous vote, there being but two dissentients; and the latter, by a majority of thirty-five to eighteen.<sup>1</sup>

<sup>1</sup> See *Annals of Congress* (1791–1793), pp. 456, 457. The President had anticipated the formal action of Congress by the following warm expression of his personal feelings, on the same occasion, in a letter to Lafayette, of 21st November, 1791:

"I cannot conclude this letter

without congratulating you most sincerely on the king's acceptance of the Constitution, presented to him by the National Assembly; and upon the happy consequences which promise to flow upon your country, as well as to mankind in general, from that event. The

When, at a later period, the establishment of a republic in France by the National Convention was officially notified by their public minister here, the secretary of State, in acknowledging the notification, used this earnest and significant language, by the authority of the President, in the name of the government and people of the United States: "Be assured, sir, that the government and citizens of the United States view, with the most sincere pleasure, every advance of your nation towards its happiness, — an object essentially connected with its liberty; and they consider the union of principles and pursuits between our two countries as a link which binds still closer their interests and affections."<sup>1</sup>

The formidable coalition of the crowned heads of Europe against the revolution in France, and the invasion of her territory in the summer of 1792 by the armies of Austria and Prussia, heralded by the famous manifesto of the Duke of Brunswick, which openly avowed for its object the putting down of the revolution by the strong hand of foreign intervention, and denounced "the rigors of military execution" against all who should not obey the imperious summons, naturally added great intensity to the sympathies already felt by the

prayers and wishes of the friends of the human race have attended the exertions of your nation; and when your affairs are completely settled, under an energetic and equal government, the hearts of good men will be gratified, and no

one will rejoice in your felicity, and for the noble and disinterested part you have acted, more than your affectionate friend George Washington."

<sup>1</sup> See Jefferson's Writings, vol. III. p. 210.

American people in the French struggle for liberty. The private correspondence, as well as the public journals, of the time affords striking evidence of the prevalence of this feeling through every class and gradation of society. Mr. Madison, in answering the anxious inquiries of his venerable friend Judge Pendleton for French news, writes on the 6th of December, 1792, "I wish I could remove your anxiety for the French. The last accounts are so imperfect and contradictory, that it is difficult to make any thing of them. They come also through the Brussels and English channels, which increase the uncertainty. It appears, on the whole, that the combination against the revolution, and particularly against their new republic, is extremely formidable; and that there is still greater danger within, from the follies and barbarities which prevail in Paris. On the other hand, it seems tolerably clear that the nation is united against royalty, and well disposed to second the government in the means of defence."

A few days later, news was received of the discomfiture and retreat of the Duke of Brunswick; and the feelings of the American people broke forth in one general burst of national exultation. Mr. Jefferson, writing from Philadelphia, on the 15th of December, to a private friend and neighbor of his in Virginia,<sup>1</sup> gives this glowing account of the sensation which the news produced: "We have just received the glorious news of the Prussian

<sup>1</sup> Dr. Gilmer, of Albemarle, Va.



army being obliged to retreat, and hope it will be followed by some proper catastrophe on them. This news has given wry faces to our monocrats here, but sincere joy to the great body of the citizens. It arrived only in the afternoon of yesterday; and the bells were rung and illuminations took place in the evening."

The barbarities committed in Paris, of which Mr. Madison speaks, particularly the massacres of September, produced a universal thrill of horror in the United States; and all minds were touched with a sentiment of deep compassion at the fate of Louis XVI. and his family. But these barbarities, and the catastrophe of the royal family, were considered as the direct, and in the dreadful excitement of the times the certain and inevitable, re-action from the violent and unwarrantable proceedings of the coalition, — proceedings which placed the people of France in the cruel dilemma of utter annihilation, or of triumph over their enemies, internal and external, by whatever means seemed most expeditious and effectual. In the language of a calm and philosophical historian of these tragic events, "There was [after the manifesto of the Duke of Brunswick, and its terrible denunciations of vengeance against the French people] but one wish, one cry of resistance, from one end of France to the other; and whoever had not joined in it would have been regarded as guilty of impiety towards his country, and the sacred cause of its independence. The popular party, which was thus forced, as it

were, to triumph, saw no other means than to put an end to the monarchy, and, in order to that, to depose the king.”<sup>1</sup>

To the minds of the American people was presented but one great issue, — on one hand, the inherent right of every nation to model or reform its institutions at its own pleasure ; and, on the other, the unhallowed combination of foreign and despotic powers, leagued together to prevent or punish the exercise of this vital and inalienable right. In the presence of such an issue, however much they deplored or condemned the revolting incidents which marked the progress of the struggle on the

<sup>1</sup> Mignet, *Histoire de la Révolution Française*, vol. i. pp. 275, 276. The English historian Alison concurs fully in the same judgment (see *Hist. of Europe*, vol. i. chap. v.); and it is remarkable, that in the English Parliament, in a debate on the king's message respecting the rupture with France, 1st of February, 1793, a distinguished member, Mr. Whitbread, referring to the barbarities mentioned in the text, said, “He denied that these barbarities were the necessary consequences of the French revolution, or of republican principles. To the conduct of the powers combined against the liberties of France, to the sanguinary manifestoes of the Duke of Brunswick, might they without hesitation be ascribed.”

But what is yet more remarkable is, that the ill-fated king himself, in a representation addressed to the allied sovereigns, while invoking their intervention, incul-

cated the necessity of the greatest delicacy and moderation towards the French people, and distinctly foretold what would be the deplorable consequences of a different procedure. “Any other conduct,” he said, “will produce civil war in the interior, put in danger the lives of the king and his family, subvert the throne, cause the royalists to be put to death, and rally to the Jacobins all the original friends of the revolution who have detached themselves, and are daily detaching themselves, from their connection.” — “Toute autre conduite produirait une guerre civile dans l'intérieur, mettrait en danger les jours du roi et de sa famille, renverserait le trône, ferait égorger les royalistes, et rallierait aux Jacobins tous les révolutionnaires qui s'en sont détachés et qui s'en détachent chaque jour.” — See *Mémoires de Bertrand de Moleville*, vol. VIII. p. 39.

one side and the other, those incidents had no power to affect their judgment on the original and intrinsic merits of the controversy.

England did not, at first, openly join the coalition. But, after the execution of the king, she ordered the French Minister ignominiously out of her dominions ; and thereupon, in the month of February, 1793, mutual and formal declarations of war by both parties soon followed. The open accession of England to the coalition modified very materially, and almost instantly, the sentiments of that party in the United States which had always, from the close of the Revolutionary war, shown a strong bias in favor of a close connection with her. Upon the great body of the people, if it produced any effect, the impression was of a very different character. On one side, they saw a power which had but lately carried war and desolation, fire and sword, through their own country, and, since the peace, had not ceased to act towards them in the old spirit of unkindness, jealousy, arrogance, and injustice ; on the other, an ally who had rendered them the most generous assistance in war, had evinced the most cordial dispositions for a liberal and mutually beneficial intercourse in peace, and was now set upon by an unholy league of the monarchical powers of Europe, to overwhelm and destroy her, for her desire to establish institutions congenial to those of America. In such a contest, it would be exceedingly difficult, if not impossible, for the people of America to be neutral in their



feelings, whatever considerations of national interest or duty there might be to enjoin upon them neutrality of conduct.

The President was at Mount Vernon when he received information, from both the secretary of State and the secretary of the treasury, of the declaration of war between England and France. He immediately wrote to those gentlemen, announcing his intention to return to Philadelphia without delay, expressing his conviction that proper measures should be taken "to prevent the citizens of the United States from embroiling the country with either of those powers, by endeavoring to maintain a strict neutrality;" and requesting them to take into their consideration, and to be prepared to give him their opinions on, the measures most likely and proper to secure that end. On his arrival in Philadelphia, he called a meeting of the cabinet, and submitted to them a series of questions in writing,—embracing not only the expediency of issuing a proclamation for the purpose indicated in his letter to the secretaries of State and of the treasury, but certain doubts which had been raised relative to the treaties with France, as well with regard to their subsisting obligation as to their correct interpretation; and also the propriety of receiving the new minister expected from the French republic. These questions were supposed at the time, and are now known, to have been prepared by the secretary of the treasury, the bias of whose opinions they sufficiently disclosed. On the part

of the President, there was entire willingness to hear the fullest and freest expression of opinions on all the points suggested for consideration, however they might differ from his own.

The cabinet council took place on the 19th April, 1793; and, on the first question propounded for consideration,—“Shall a proclamation issue for the purpose of preventing interferences of the citizens of the United States in the war between France and Great Britain, &c.”—the opinion in the affirmative was unanimous. According to a contemporary official memorandum of the result of the deliberation on this question, the proclamation to be issued was “to forbid citizens of the United States to take part in any hostilities on the seas with or against any of the belligerent powers; and to warn them against carrying to any such powers any of those articles deemed contraband, according to the modern usage of nations; and to enjoin them from all acts and proceedings inconsistent with the duties of a friendly nation towards those at war.”<sup>1</sup>

The proclamation was issued on the 22d of April, 1793; and being in some of its introductory clauses<sup>2</sup> very vaguely drawn by the attorney-general, who was charged with its preparation, it received at the hands of politicians an interpretation straining

<sup>1</sup> See this memorandum in Sparks's Washington, vol. x. p. 534; and also in Hamilton's Works, vol. iv. p. 360.

<sup>2</sup> The introductory clauses of the proclamation here referred to, as drawn by the attorney-general,

assumed to declare, that “the *duty and interest* of the United States *required* them” to pursue a system of *impartiality* between the belligerent powers, and also that the “*disposition* of the United States” was in accordance with such a policy.

it beyond the purport of the official record made at the time. One of the questions distinctly propounded for the consideration of the cabinet, as shown by the written series above mentioned, was this: "Shall the proclamation contain *a declaration of neutrality*, or not?" — that is, an authoritative annunciation by the executive of the future and permanent policy of the United States with regard to all the powers at war, or simply an admonition to the individual citizens of the United States for the regulation of their conduct in the existing state of the law and fact. On this point we have the following contemporary revelation of what passed in the cabinet, in a letter from Mr. Jefferson to Mr. Madison of the 23d of June, 1793: —

"The proclamation, as first proposed, was to have been a declaration of neutrality. It was opposed on these grounds: 1. That a declaration of neutrality was a declaration that there should be no war, to which the executive was not competent; 2. That it would be better to hold back the declaration of neutrality, as a thing worth something to the powers at war, — that they would bid for it, and we might reasonably ask for it, *the broadest privileges* of neutral nations. The first objection was so far respected as to avoid inserting the term *neutrality*; and the drawing of the instrument was left to Edmund Randolph. That there should be a proclamation was passed unanimously, with the approbation or the acquiescence of all parties."<sup>1</sup>

<sup>1</sup> This statement of Mr. Jefferson was in answer to a letter of Mr. Madison of the 13th June, 1793, suggesting, with his habitual accu-



On the same point we have the declarations, equally explicit, of the President himself, made on a subsequent occasion when the question arose, in what light the proclamation was to be presented in the opening speech to Congress. According to a contemporary memorandum, made by Mr. Jefferson,—

“The President declared he never had an idea that he could bind Congress against declaring war, or that any thing contained in his proclamation could look beyond the first day of their meeting. His main view was to keep *our people* in peace. He apologized for the use of the term ‘neutrality’ in his answers [to public addresses], and justified it

racy and vigilant attention to questions of that sort, certain doubts and queries as to the *actual form* of the Proclamation in a constitutional point of view.

“I have always supposed,” he said, “and still conceive, that a proclamation on the subject could not properly go beyond a declaration of the *fact* that the United States were at war or peace, and an injunction of a suitable conduct on the citizen. The right to decide the question whether “the duty and interest” of the United States require war or peace under any given circumstances, or whether their “disposition” be towards the one or the other, seems to be essentially and exclusively involved in the right vested in the legislature of declaring war in time of peace, and in the President and Senate of making peace in time of war. Did no such view present itself in the discussions of the cabinet?”

“I am extremely afraid that the President may not be sufficiently aware of the snares that may be laid for his good intentions, by men whose politics at bottom are very different from his own. An assumption of prerogatives not clearly found in the Constitution, and having the appearance of being copied from a monarchical model, will beget animadversions equally mortifying to him and disadvantageous to the government. Whilst animadversions of this sort can be plausibly ascribed to the spirit of party, the force of them may not be felt. But all his real friends will be anxious that his public conduct may bear the strictest scrutiny of future times, as well as of the present day; and all such friends of the Constitution will be doubly pained at infractions of it under auspices that may consecrate the evil, till it be incurable.”

by having submitted the first of them wherein the term was used — that to the merchants — to our consideration, and we had not objected.” He repeated on the following day, “He had but one object, — the keeping our people quiet, *till Congress should meet.*”<sup>1</sup>

The next question, in the series of those submitted to the deliberations of the cabinet, was whether the expected minister from the French republic should be received; and, if received, shall it be absolutely, or with qualifications. Colonel Hamilton felt great aversion to receiving, in any manner whatever, a representative from the French *republic*, and had, on previous occasions, started many doubts and difficulties on the subject;<sup>2</sup> but he now reluctantly concurred in the general opinion of the cabinet, and what he knew to be the fixed determination of the President, that the new Minister should be received. At the same time he earnestly contended that the reception should be qualified by a formal declaration, that the government of the United States reserved for its future decision the question whether the treaties of 1778, by which the friendly relations between the two countries were originally established, and had been hitherto invariably conducted, should be considered as still in force, and binding on the United States. This proposition he endeavored to sustain by a long

<sup>1</sup> Jefferson's Writings, vol. iv. pp. 496, 498.

<sup>2</sup> See Jefferson's Writings, vol. iv. pp. 481-484; and letter of Col-

onel Hamilton to Mr. Jay of 9th April, 1793, in Hist. Am. Rep., vol. v. pp. 226, 227.

and elaborate argument, to show that, in consequence of the change of government in France, and other considerations much dwelt on by him, the United States had a perfect right, if they thought proper to do so, to renounce the treaties with France ; and that they ought at least to declare the operation of those treaties suspended for the present.

How such a proposition and doctrine could be maintained with any decent appearance of reason, it is difficult to conceive. But the members of the cabinet having subsequently drawn up their opinions in writing, we have now the opportunity of calmly reviewing and sitting in judgment upon them.<sup>1</sup> Transparent as is the sophistry by which Colonel Hamilton attempts to disguise the enormity of a proposition, involving an open breach of national engagements of the most sacred character, without even the allegation of any departure from them by the other contracting party, the reader will be yet more startled by the nature and complexion of the motives avowed for entering on so ungenerous and unmanly a policy. The apprehension of incurring the "resentment" of England and her associates in the war, and of "being treated by them as enemies," if we allowed the once proud monuments of our friendly connection with France to stand, was openly assigned as a justifiable reason for the renunciation of treaties consecrated by the

<sup>1</sup> See the opinion of Colonel Hamilton in *Hamilton's Works*, vol. iv. pp. 362-381.



noblest recollections of national chivalry, magnanimity, and honor! And all this was to be done under the pretext of preserving our neutrality and peace with the powers at war; as if so gross an act of perfidy towards France would not necessarily make us the declared enemies of that power and involve us in war with her! To avoid the remotest possible risk of collision with England and her allies, we were to plunge, by an act of national pusillanimity and dishonor, into the certainty of a war with France.

The "opinion" of Mr. Jefferson, in answer to the proposition and argument of Colonel Hamilton, was a bold, manly, and eloquent appeal to the principles of common sense, the obligations of national honor and good faith, and the unsophisticated maxims alike of public law and of an elevated and enlightened public policy. The fundamental sophism of Colonel Hamilton, with regard to the effect of a change of government in France, he met by the simple statement, "that the treaties between the United States and France were not treaties between the United States and Louis Capet, but between the two nations of America and France; and the nations remaining in existence, though both of them have since changed their forms of government, the treaties are not annulled by these changes."

To Colonel Hamilton's arguments of fear, founded on the supposed danger of our being drawn into the war by the guarantee of the French West-India

islands, contained in one of the treaties, he thus replied: —

“Is the danger apprehended, that, the treaties remaining valid, the clause containing the guarantee of the French West-India islands will engage us in the war? But does the guarantee engage us to enter into the war in any event? Are we to enter into it before we are called upon by our allies? Have we been called on by them? Can they call on us before their islands are invaded or imminently threatened? If they can save themselves, have they any right to call on us? Are we obliged to go to war at once, without trying peaceable negotiations with their enemy? If all these questions are answered against us, there are others behind.” And as to the singular expedient of avoiding the mere, and most remote, *possibility* of war on one side, by incurring the *certainly* of it on the other, he said, “If, in withholding a compliance with any part of the treaties, we do it without just cause or compensation, we give to France a cause of war, and so become associated in it on the other side. An injured friend is the bitterest of foes; and France has not discovered either timidity or overmuch forbearance on the late occasions. Is this the position we wish to take for our constituents?<sup>1</sup> Is it certainly *not* the one they would take for themselves?”

<sup>1</sup> The poignancy of this allusion must have been felt by Colonel Hamilton. In a deliberation of the cabinet only six months before (31st

October, 1792), on the threatening aspect of our affairs with Spain, a memorandum of which was made by Mr. Jefferson at the time, Colo-

On taking the sense of the cabinet on the proposition of Colonel Hamilton, he and his colleague, General Knox, secretary of war, were in favor of it, — Mr. Jefferson and the attorney-general, Mr. Edmund Randolph, against it. The unswerving sentiments of justice and honor of the President rallied him, without hesitation, to the side of the latter; and feeling that the national honor was in some degree compromised by having even entertained such a question for discussion, he suggested that it would be well that nothing should be said of it.<sup>1</sup> But suppression of what had taken place was plainly impossible, from the deep interest that had been felt and manifested on both sides. Mr. Jefferson, in his unreserved intercourse with Mr. Madison, made a very brief and general allusion to it, without mention of names, in a letter of the 28th of April, 1793. “Would you suppose it possible,” he said, “that it should have been seriously proposed to declare our treaties with France

nel Hamilton openly avowed that a favorite object of his policy was a defensive treaty of alliance with England; and one of the inducements which he supposed would be most influential with her to enter into such a treaty, was, that we should first break our connections with France. The President promptly negatived the suggestion, by saying that the remedy would be worse than the disease. — See Jefferson's Writings, vol. iv. pp. 473, 474. A further allusion to the strong bent of Colonel Hamilton's inclinations and politics, at this

period, is contained in a confidential letter of the 19th of May, 1793, from Mr. Jefferson to Mr. Madison. “In short, my dear sir,” he says, “it is impossible for you to conceive what is passing in our conclave. It is evident that one or two at least, under pretence of avoiding war on the one side, have no great repugnance to run foul of it on the other, and to make a part in the confederacy of princes against human liberty.”

<sup>1</sup> See Jefferson's Writings, vol. iv. p. 484.



void, on the authority of an ill-understood scrap from Vattel, and that it should be necessary to discuss it?"

Mr. Madison, in his answer of the 8th of May, thus expressed himself: "Peace is, no doubt, to be preserved at any price that honor and good faith will permit. But the least departure from these will not only be most likely to end in the loss of peace, but is pregnant with every other evil that could happen to us. In explaining our engagements under the treaty with France, it would be honorable, as well as just, to adhere to the sense that would at the time have been put upon them. The attempt to shuffle off the treaty altogether, by quibbles on Vattel, is equally contemptible for the meanness and folly of it. If a change of government is an absolution from public engagements, why not from those of a domestic as well as foreign nature; and what then becomes of public debts, &c.? In fact, the doctrine would perpetuate every existing despotism, by involving, in a reform of the government, a destruction of the social pact, an annihilation of property, and a complete establishment of the state of nature. What most surprises me is, that such a proposition should have been discussed."

At length the Minister, Monsieur Genet, whose expected arrival had given rise to these grave questions of international obligation and policy, was announced as having arrived at Charleston, S. C., on the 8th day of April. He was received there with

great demonstrations of enthusiasm on the part both of the people and of the public authorities; and his subsequent progress through the States of North Carolina and Virginia was marked by the same manifestations of a general and cordial sympathy for the cause of his country. Even in the old and quiet town of Fredericksburg, as he passed through Virginia, we learn, from a letter of Mr. Madison of contemporary date,<sup>1</sup> that "a public dinner was intended for him; but he passed with such rapidity that the compliment miscarried." On his arrival in Philadelphia, the 16th of May, the citizens determined to give him a public reception of cordial and affectionate welcome. The day before, an address had been presented by the merchants of Philadelphia to the President, in approbation of the so-called proclamation of neutrality. "The citizens," said Mr. Jefferson, in a letter of the 19th of May, to Mr. Madison, "determined to address Genet. Rittenhouse, Hutcheson, Dallas, Sargeant, &c., were at the head of it. Though a select body of only thirty was appointed to present it, yet a vast concourse of the people attended them. I have not seen it; but it is understood to be the counter-address [to that of the merchants]."<sup>2</sup>

Nothing could evince more strikingly than these spontaneous and unusual manifestations of public sympathy, offered to a foreign Minister by citizens

<sup>1</sup> Manuscript letter to Mr. Jefferson, of 27th May, 1793.

<sup>2</sup> See a feeble attempt of Colonel

Hamilton to diminish the importance of this demonstration, in Hamilton's Works, vol. iv. p. 564.

of every class, embracing with the mass of the people men distinguished by their moral and intellectual pre-eminence, that the unlucky language of the proclamation of the 22d of April, in enjoining a cold *impartiality* between the powers at war, was not in harmony with the genuine sentiments of the American mind. We are told, indeed, by a distinguished authority, whose well-known leaning was altogether the other way, that, when the news of the declaration of war between England and France reached the United States, "a great majority of the American people deemed it criminal to remain unconcerned spectators of a conflict between their ancient enemy and republican France. The feeling on this occasion was almost universal. Men of all parties partook of it."<sup>1</sup> Mr. Madison, in all his correspondence of the period immediately succeeding the appearance of the proclamation, speaks to the same effect of the prevailing sentiment of the country, and of the unhappy impression produced upon it by the language of that instrument. In a letter of the 19th of June, 1793, addressed, from his country residence in Virginia, to Mr. Jefferson, and repeating in substance the contents of a previous letter of the 13th of the month, he says: —

"Every gazette I see (except that of the 'United States') exhibits the spirit of criticism on the Anglified complexion charged on the executive politics. I regret exceedingly the position into which the

<sup>1</sup> Marshall's Life of Washington, vol. II. p. 256.



President has been thrown. The unpopular cause of Anglomany is openly laying claim to him. His enemies, masking themselves under the popular cause of France, are playing off the most tremendous batteries on him. The proclamation was in truth a most unfortunate error. It wounds the national honor, by seeming to disregard the stipulated duties to France. It wounds the popular feelings, by a seeming indifference to the cause of liberty. And it seems to violate the form and spirit of the Constitution, by making the executive magistrate the organ of the 'disposition,' 'the duty,' and 'the interest' of the nation in relation to war and peace,—subjects appropriated to other departments of the government."

Such were the prevailing sentiments of the American people towards the French Minister and the cause of his country, when he entered upon his representative functions at Philadelphia. But, after the lapse of a few months, his indiscretions, his intemperate zeal, his disregard of the proprieties of official intercourse, had become so offensive as wholly to forfeit the good feeling which had been manifested towards himself, and in no small degree the national sympathy for the interests with which he was charged; though his government, when appealed to, promptly disavowed *and made amends for his unseemly conduct*. What rendered the unbecoming procedure of M. Genet, in his intercourse with the government of the United States, the more difficult to explain as well

as to excuse, was that he was the very child of diplomatic and court traditions. His father had been *premier commis* of the department of foreign affairs, under the administration of the celebrated Duke de Choiseul; he himself was introduced into the department at a very early age, as an assistant to his father; he was soon sent first secretary of embassy with Count Ségur to St. Petersburg; and he enjoyed the special favor and kindness of the queen, Marie Antoinette, whose most intimate friend and *confidante* his sister, Madame Campan, was. Having afterwards had a misunderstanding with the king's minister, Montmorin, when he was left in charge of the embassy at St. Petersburg by the retirement of Count Ségur, he gave himself up to the torrent of revolutionary passions; and a temper, ardent by nature, degenerated into impetuosity and violence.

His first interview with the government, after his arrival at Philadelphia, was every thing that could be desired. Mr. Jefferson, in a letter of the 19th of May, 1793, to Mr. Madison, gave the following account of what passed on the occasion of his presentation:—

“Monsieur Genet presented his letters of credence yesterday. It is impossible for any thing to be more affectionate, more magnanimous, than the purport of his mission. ‘We know that, under present circumstances, we have a right to call upon you for the guarantee of our islands; but we do not desire it. We wish you to do nothing but

what is for your own good ; and we will do all in our power to promote it. Cherish your own peace and prosperity. You have expressed a willingness to enter into a more liberal treaty of commerce with us. I bring full powers (and he produced them) to form such a treaty, and a preliminary decree of the National Convention to lay open our country and its colonies to you for every purpose of utility, without your participating in the burthens of maintaining and defending them. We see in you the only persons on earth who can love us sincerely, and merit to be so loved.’”

The same cordial and liberal sentiments were publicly repeated by him a day or two afterwards in his answer to the address of the citizens of Philadelphia ; and, thus becoming generally known, confirmed the people of the United States in their ardent feelings of sympathy and friendship for his country. A further and practical illustration of the liberal spirit of his mission was given in the formal communication of the decree of the National Convention of the 19th of February, 1793, above referred to. By that decree, all the ports of the French colonies were opened to the vessels of the United States ; and American vessels, importing or exporting produce of any kind to or from France or any of her colonies, were to pay no other or higher duties on their cargoes than the vessels of France herself paid on theirs : and all the restrictions which had, at any time theretofore, been imposed by acts of the French government on



any branch of the trade or enterprise of the United States, were suspended.<sup>1</sup>

The first occasion of diplomatic discussion between Monsieur Genet and the American government was furnished by a letter which the secretary of State had addressed to his predecessor, M. Ternaut, on the 15th of May, the day before the arrival of M. Genet in Philadelphia. That letter communicated several memorials of the British Minister, complaining of certain acts alleged to have been committed by French agents, or under the auspices of the French government, within the jurisdiction of the United States, together with the determinations formed upon them by the executive authority of the United States. These complaints referred to the buying of arms and military accoutrements in the United States, for the use of France; the condemnation of prizes of war by the French consul at Charleston; the fitting out and commissioning of French privateers in the same port, manned in part with American citizens; and the capture of a British vessel, the "Grange," by the French frigate "L'Embuscade," in the bay of Delaware and within the territorial limits of the United States.

The French Minister was informed that the first complaint was held to be unfounded in principle, the sale of arms and munitions of war being permitted to neutrals by the law of nations, when the liberty to buy is enjoyed alike by both belligerents;

<sup>1</sup> See this decree, with the communication of the Minister transmitting it, in Waite's State Papers, vol. 1. pp. 67-69.

that the condemnation of prizes, by an officer of a foreign power, within the limits of the United States, was considered as a usurpation, which, if it had happened or should happen in any instance under the control of the French Minister, it was not doubted he would take effectual measures to redress; that the fitting out of privateers — “the arming of men and vessels within our territory, to wage war with nations with whom we are at peace” — is deemed wholly inadmissible, and not to be imputed, without conclusive proof, to a friendly power like France; and that the participation of citizens of the United States in hostilities against any of the powers at war, would be viewed with the highest disapprobation and visited with condign punishment by the authorities of the United States; and, finally, that the capture of the British ship, the “Grange,” “was made unquestionably within the jurisdiction of the United States; and that, according to the rules of neutrality and the protection due to all persons while within their limits, the government of the United States is bound to see that the crew of the captured vessel be liberated, and that the vessel and cargo be restored to their former owners.”

The French Minister, M. Genet, in his answer of the 27th of May, expressed his satisfaction at the decision of the executive on the first topic of complaint presented by the Minister of England; with regard to the second, he promised a correction of any irregularity of the French consuls in assum-

ing a jurisdiction not ceded by the treaties and laws of the United States ; and, in relation to the capture of the British ship, the “ Grange,” in the waters of the Delaware, he informed the secretary that he had ordered the restoration of the prize, though of considerable value, in compliance with the wishes of the President, and as a mark of “ deference and friendship for the American government.” On the subject of the third ground of complaint alleged by the British Minister, he stated, —

“ It is certain that several vessels have been armed at Charleston ; that they have received from me commissions of the republic, agreeable to the forms I have had the honor to communicate to you ; and that these vessels, despatched to sea with great celerity, have made many prizes, have condemned to inaction, by the terror they have spread among the English, almost all the sailors and vessels of that nation which were in the ports of the United States, and by their success have very sensibly raised the freight of American vessels. I grant that this must be displeasing to Mr. Hammond, to his court, and to his friends. But that is not the matter in question. . . . The vessels armed at Charleston belong to French citizens ; they are commanded or manned by French citizens, or by Americans who, at the moment they entered the service of France in order to defend their brothers and their friends, knew only the treaties and laws of the United States, no article of which imposes on them the painful injunction of abandoning us in



the midst of the dangers which surround us." He concluded by expressing the hope, that, upon the representation now made, "the Federal government would *return* from the first impressions which the reports of the Minister of England appear to have made on it."

On the 5th of June, Mr. Jefferson wrote to M. Genet, and informed him that the President, "after mature consultation and deliberation," adhered to the opinion, that "the arming and equipping vessels in the ports of the United States, to cruise against nations with whom they are at peace, is incompatible with the territorial sovereignty of the United States; that it made them instrumental to the annoyance of those nations, and thereby tended to compromit their peace; . . . that it is the *right* of every nation to prohibit acts of sovereignty from being exercised by any other within its limits, and the *duty* of a neutral nation to prohibit such as would injure one of the warring powers; that the granting military commissions within the United States, by any other authority than their own, is an infringement on their sovereignty, and particularly so when granted to their own citizens to lead them to commit acts contrary to the duties they owe their own country."

Notwithstanding the solemn and formally announced determination of the executive, Monsieur Genet continued to fit out in the ports of the United States, and to commission in the name of the French republic, privateers to cruise against the

commerce of her enemies. Two vessels of that description, the "Citoyen Genet" and the "Sans Culottes," had been commissioned by him at Charleston previous to the 5th of June, — the date of the secretary's letter announcing to him the final determination of the President; and after that time he commissioned five others, all bearing significant names of the French revolutionary era, — "Le Vainqueur de la Bastille," the "Anti-George," the "Carmagnole," the "Republican," and the "Petit Democrat." All the efforts of the government and its officers to detain these vessels, and to prevent them from leaving port to commit acts of hostility on powers with which the United States were at peace, were eluded or set at defiance by M. Genet; and in the case of the "Petit Democrat," which had been armed and equipped in the port of Philadelphia, under the very eye of the government, the vessel was sent to sea by direct orders from M. Genet himself, against the express remonstrance and request of the President, communicated to him by the secretary of State.<sup>1</sup>

<sup>1</sup> Judge Marshall has so related the circumstances connected with the sailing of the "Little Democrat," as to produce the impression, that Mr. Jefferson in some degree connived at it, and by so doing incurred the indignant displeasure of the President, from which he shrank "by retiring indisposed to his seat in the country." — *Life of Washington*, vol. II. pp. 271–273. The invidious coloring here given

to the conduct of the secretary of State marks painfully the party, if not personal, bias under which the learned Judge wrote; and vanishes wholly before the facts, that the secretary of State had in person put the papers relating to the subject into the hands of the President; that his habitual residence was then in the country, to which he always "retired" after the business of his office for the day was closed; that

The patience of the government was at length exhausted by the freaks of this froward and turbulent representative of the French republic, and it was determined to ask his recall. The secretary of State, on the 16th of August, 1793, addressed a letter to Mr. Gouverneur Morris, American Minister at Paris, in which he reviewed, at great length and with singular ability, all the questions which had arisen in the discussions between M. Genet and himself; and reciting, without passion or exaggeration, the language and conduct of the former, drew a clear line of distinction between the well-known dispositions and intentions of the French government and the proceedings of its Minister. This communication was directed to be laid before the Executive Council of France; with a request, in frank and courteous terms, that "they would hasten to replace an agent whose dispositions are such a misrepresentation of theirs, and whose continuance here is inconsistent with order, peace, respect, and

he attended the meeting of the cabinet on the following day, and maintained and justified "the opinion" he had given in opposition to that of the secretary of the treasury and secretary of war; and that the President afterwards, when fully apprised of all the circumstances of the case, deliberately and officially sanctioned the wiser and more prudent counsels of the secretary of State. It does not fall within the province of this work to discuss the details of this question. The author, however, for the sake of truth and fairness, cannot forbear to record—

what he knows was felt by many of the most enlightened and impartial contemporaries of the transaction—his conviction of the injustice done to the character and conduct of Mr. Jefferson by the statement referred to. For a more detailed examination of the question, see Tucker's *Life of Jefferson*, vol. I. pp. 431-433; and Randall's *Biography*, vol. II. pp. 161-172. See also the spirited and free-spoken "opinion" of Mr. Jefferson, together with those of Messrs. Hamilton and Knox, in Hamilton's *Works*, vol. IV. pp. 438-448.



that friendly correspondence which, we hope, will ever subsist between the two nations." This application was promptly acceded to by the authorities of the French republic; and was soon followed by a like courteous request on their part, for the recall of the American Minister at Paris, who had openly and offensively identified himself with the opposition to the French revolution in every stage of its progress. Thus ended this first diplomatic embroilment in the relations of two nations having, and mutually feeling, at the time, the strongest motives to cultivate the most cordial intercourse with each other.

It was not by the French Minister alone that the government of the United States was thwarted and annoyed in its endeavors to preserve neutrality between the powers at war. British cruisers, as well as French, were armed and equipped in the ports of the United States; and, in open contempt of the 17th article of the treaty of amity and commerce with France, the privateers of Great Britain came into the ports of the United States with their prizes, remained as long as they pleased, and went to sea again without molestation or hindrance. Some of these cases were brought to the notice of the government by communications from the French Minister. In a letter to the secretary of State of the 25th of June, 1793, he says, "You will observe by the inclosed reports of the consuls of the republic at Charleston, Baltimore, Philadelphia, and New York, that many enemy-vessels have been armed

there, have entered armed, remained there, and have gone out from them armed, in contempt of our treaties ; whilst, in virtue of instructions from the President of the United States, the French adventurers who have been able to put themselves in a state of defence in the ports of their allies, in order to go out without danger, and to fulfil otherwise, according to circumstances, the duties of a citizen against the enemies of the state, are pursued with rigor." These facts are not denied by the secretary of State, but ascribed, in some of the instances, to surprise and want of preparation ; in others, they could not have happened without the neglect or connivance of the officers of the customs charged with this branch of the national police, under the special supervision of the treasury department.<sup>1</sup>

But what yet more wounded the pride and roused the feelings of the American people, while it naturally furnished to the French Minister a subject of earnest remonstrance, was the frequent and habitual violation of the flag of the United States by British cruisers, in entering American vessels, and taking from them French goods and French citizens whenever found on board of them. The immunity of neutral vessels from such visitations and seizures had been consecrated in the treaties of the United States with France and with several other European nations, by the formal recognition of the principle,

<sup>1</sup> See letters of M. Genet and documents, in Waite's State Papers, Mr. Jefferson, with accompanying vol. I. pp. 110-114.

that *free ships make free goods*. While France, therefore, was restrained from the seizure of British goods or subjects in American vessels, she could not but see, with peculiar indignation, that the flag of the United States was no cover to her property or citizens against the violence and rapacity of her enemy; but that it was constantly and recklessly violated, to her most serious loss, as well as to the humiliation of the United States. The French Minister, in a letter to the secretary of State, of 25th July, 1793, says: —

“I receive daily new complaints on the insults which the English are pleased to commit against the flag of the United States. . . . On all the seas, an audacious piracy pursues, even in your vessels, French property, and also that of Americans, when destined for our ports; your political rights are counted for nothing; in vain do the principles of neutrality establish that friendly vessels make friendly goods; in vain, sir, does the President of the United States endeavor, by his proclamation, to reclaim the observation of this maxim. . . . It is not possible for me to paint to you all my sensibility at this scandal, which tends to the diminution of your commerce, to the oppression of ours, and to the debasement and vilification of republics. It is for the Americans to make known their generous indignation at this outrage; and I must confine myself to demand of you, a second time, to inform me of the measures which you have taken, in order to obtain restitution of the property plundered from



my fellow-citizens under the protection of your flag."

To this remonstrance Mr. Jefferson replied, that, while the principle recognized by France and the United States, and also by many other modern nations, was most conformable to reason and justice, "he believed it was not to be doubted but that, by the *general* law of nations, the goods of an enemy found in the vessel of a friend are lawful prize;" and, therefore, he should be at a loss on what ground to make the reclamation urged by the Minister of France. It is remarkable, that, within a day or two after Mr. Jefferson's answer to the French Minister, and without any knowledge of the nature of that answer, Mr. Madison expressed the opinion, in a letter of the 29th of June, 1793, addressed to Mr. Jefferson himself, that the principle of *free ships making free goods* was to be considered as already engrafted on the modern law of nations. "I observe," he said, "that our vessels are frequently and insolently seized and searched for French goods. Is not this complained of by our own people, as a breach of the modern law of nations; and, whilst British goods are protected by the neutrality of our bottoms, will not remonstrances come from France on the subject?" It is shown also by our diplomatic records, that, about the same time, the American Minister at London, in his correspondence with the British secretary for foreign affairs, Lord Grenville, claimed the principle of free ships making free goods as then actually

established by general usage, and treated the seizure of French goods in American bottoms by British cruisers as a positive "infringement on the neutral rights of the United States."<sup>1</sup> Whether then established by general usage or not, considerations of reciprocity and a just and enlightened policy should have impelled the British government to observe this principle towards the United States, in acknowledgment and return of a scrupulous neutrality on their part, attended with peculiar embarrassments, and which the British secretary had the grace to acknowledge, in words at least, to the American Minister.<sup>2</sup>

<sup>1</sup> The following was the language of Mr. Pinckney, in a note of the 28th of August, 1793, to Lord Grenville: "It is conceived, that, as commerce has been more diffusively cultivated, and its principles better understood, the law of nations relating thereto has received material improvements since the publication of the most modern and most approved writers on that subject; and that, whatever doubts may have formerly existed on this point, the sense of a considerable majority of the maritime powers of Europe has, within the last twenty years, been clearly expressed in favor of the principle of free ships making free goods; which has been manifested by their practice in the latter years of the American war, by the stipulations entered into at that time, and by their having inserted the same in their latest treaties."—See Waite's State Papers, vol. I. pp. 404. The reasoning of Mr. Pinckney, and the opinion of Mr.

Madison cited in the text, have been since fully justified by the formal accession of England, and all the great powers of Europe, to the principle contended for; and it is one of the most encouraging examples in history of the ultimate triumph of truth and reason over force and error, that the most learned and able vindication of the principle, against the abusive practice of his government, was made by a Minister of the British crown, Sir William Molesworth, in a memorable debate in the House of Commons, on the 4th of July, 1854. (See that debate in Appendix to Lawrence's Wheaton, pp. 643-649.) England began the practical renunciation of her abusive system, by the royal Declaration of the 28th of March, 1854, at the commencement of the war with Russia; and its general abandonment was completed by the Congress of European powers at Paris in 1866.

<sup>2</sup> See Mr. Pinckney's letter to

In the midst of this habitual disregard of the neutral position of the United States, came another act of British aggression, of the most aggravated and undisguised character. On the 8th of June, 1793, an order in council was issued, directing His Majesty's ships of war, and privateers having letters of marque against France, to seize and bring into English ports all vessels laden, wholly or in part, with corn, flour, or meal, destined to any port of France, or port occupied by the armies of France; and such cargoes were ordered to be sold to the British government, or to be re-exported to countries in amity with Great Britain. This arbitrary and unwarrantable attack on the lawful commerce of neutral powers was in pursuance of the monstrous design of starving twenty odd millions of people into submission to the despotic powers of Europe, coalesced against them; and had been formally set on foot by a most disreputable treaty, entered into between Great Britain and Russia on the 25th of March, 1793.<sup>1</sup>

Mr. Jefferson, of 5th July, 1793, in Waite's State Papers, vol. i. p. 401.

<sup>1</sup> See the provisions of this treaty in *Histoire des Traités de Paix, par Koch et Schoell*, vol. iv. pp. 131-133; and referred to also in Pitkin's History of the United States, vol. ii. pp. 395-401.

Judge Marshall, referring to certain decrees of the French convention unfriendly to neutral commerce, speaks of the acquiescence of the American people and government under those decrees, con-

trasted with their indignation at the British order in council, as a culpable instance of partiality for France. (Life of Washington, vol. ii., Appendix, p. 16.) In making this remark, the learned judge seems not to have been aware, that these decrees were defensive measures of France against previous aggressions aimed at her through the sides of neutral powers. The decree particularly referred to by him was that of the 9th of May, 1793, by which neutral vessels laden with provisions and



Under the order in question, large numbers of American vessels were arrested on the high seas by

destined to the port of an enemy, or having on board property of an enemy, were authorized to be seized and brought into the ports of France; which being anterior to the British order of 8th of June, he considered as the *commencement* of the measures adopted by the powers at war against the commerce of neutrals. But this was not the fact. The disgraceful treaty between Great Britain and Russia, of the 25th of March, 1793, referred to in the text, inaugurated and first put into operation the barbarous policy of proscribing the trade of neutrals in provisions, as a means of starving France into submission. It was prefigured even before that time; for the American Minister at Paris, writing to Mr. Jefferson on the 13th February, 1793, said, "The maritime powers will try to cut off provisions, and take France by famine."—*Life and Correspondence of G. Morris*, vol. II. p. 279.

When the decree of the 9th of May was communicated by Monsieur Genet to the government of the United States, it was announced expressly as "a measure rendered necessary by the detestable tyranny exercised over neutral nations by the governments which have forced France into war;" and it was accompanied with a positive engagement of the convention to withdraw it, "as soon as the powers with whom France is at war shall have adopted the same disposition." (See Waite's *State Papers*, vol. I.

pp. 417, 418.) The French Minister of foreign affairs himself, in a letter addressed to the American Minister at Paris, also declared it to be "an act of *reprisal*, and the result of the most imperious circumstances. It will continue only as long as our enemies employ against us means disapproved by the laws of humanity and the laws of war."—See this letter in *Life and Correspondence of G. Morris*, vol. II. pp. 365, 366.

The chief-justice seems also to have given but little heed to the fact, that the French decree was twice suspended, so far as respected the vessels of the United States; or to the consideration, that, even when left to its unrestricted operation, it was practically innocuous, from the want of a marine force to support it. "We shall see in effect," said Mr. Morris in a letter of the 22d of September, 1793, to Mr. Jefferson, "that this decree can do very little harm; because the fleets of the country are confined by those of the enemy, and the privateers by a decree of the convention."—*Idem*, p. 354.

The mitigated, if not apologetic, tone of the chief-justice, with regard to the aggressive measures of the British government on this occasion, is refreshingly offset by the frank and unreserved censure pronounced upon them by another historical writer of the same political party.—See Pitkin's *Hist. of the United States*, vol. II. pp. 395–401.

British cruisers, brought into British ports, and both vessel and cargo vexatiously dealt with, to the injury, and often ruin, of the fair American trader. In the vigorous remonstrance of the secretary of State on the occasion, after clearly setting forth the wanton and unlawful character of the act, it was described to be "a blow struck at the root of American agriculture, — that branch of industry which gives food, clothing, and comfort to the great mass of the inhabitants of these States." Added to the continued outrage of British press-gangs entering on board of American vessels, and forcibly abducting American seamen from beneath the flag of their country, it caused the people of the United States to reflect, with bitterness of spirit, on the kind of return which had been made for the anxious efforts of their government to fulfil, to the extremest letter, the duties of neutrality towards a nation with whom, it now appeared, as the French Minister had significantly warned them, "generous proceedings only lead to new outrages."<sup>1</sup>

While these questions were pending before the tribunal of public opinion, Colonel Hamilton wrote a series of controversial articles for the newspapers, under the title of "Pacificus," beginning in the latter part of June, 1793, and continuing through the greater part of the month of July. Under the guise of enforcing a policy of neutrality between the parties at war, these articles betrayed the strongest

<sup>1</sup> See letter of M. Genet to Mr. Jefferson, of 9th July, 1793, in Waite's State Papers, vol. I. p. 126.

possible prejudice, if not animosity, against one of those parties; and that one the party with which the United States stood connected in intimate relations by treaty, and the ties of honor and gratitude. Professing, also, to vindicate the President's proclamation of the 22d of April, they claimed for the President, in virtue of his office, a sweep of executive prerogative contrary to his well-known opinions, and inconsistent with the principles of a limited republican constitution.

Doctrines of so novel and dangerous a character startled Mr. Madison in his retirement. His attention had been called to them by Mr. Jefferson, who urged him to take up his pen, and give a fundamental answer to the heresies of "Pacificus;" which would otherwise pass without adequate refutation, and be "taken for confessed." Mr. Madison, in his answer of the 18th of July, 1793, said, "I have read over the subject you recommended to my attention. It excites equally surprise and indignation, and ought certainly to be taken notice of by some one who can do it justice. In my present disposition, which is perfectly alienated from such things; and in my present situation, which deprives me of some material facts and many important lights,—the task would be in bad hands, if I were otherwise better qualified for it. I am in hopes of finding that some one else has undertaken it. In the mean time, I will feel my own pulse; and, if nothing appears, I may possibly try to supply the omission."



No champion having appeared in the field in opposition to these bold heresies of "Pacificus," rendered the more dangerous by the acknowledged talent and ingenuity of the advocate, Mr. Madison at length, feeling the great importance of the public forming right views on the subject, undertook the task of replying to them. He waited until the whole series of the articles of "Pacificus" had been completed, the last number of which did not appear in the Philadelphia journals until the 27th of July, and did not reach him, in Virginia, till several days later. In a letter to Mr. Jefferson, of the 30th of July, he spoke of the rough sketch he had made of a portion of his reply, and the disadvantages under which he labored in preparing it, — "being obliged to proceed in scraps of time, with a distaste to the subject, and a distressing lassitude from the excessive and continued heat of the season." The first number of his reply was sent to Philadelphia on the 11th of August, and the remaining four numbers on the twentieth of the month. They were published under the historical name of "Helvidius," and were worthy of the stern republicanism, and experienced sagacity and wisdom, of that great patriot and statesman of antiquity.<sup>1</sup> It would be impossible, by any analysis,

<sup>1</sup> Mr. Madison was probably led to the adoption of this name only by his general and habitual admiration of whatever is great and noble and elevated in human character. But he could hardly have avoided a consciousness, that, in the following beautiful portrait of

Helvidius, drawn by the pen of Tacitus, there were many traits applicable to himself: "*Ingenium illustre altioribus studiis juvenis admodum dedit: non ut plerique, ut nomine magnifico segne otium velant, sed quo firmior adversus fortuita rempublicam capesseret.*"

to do justice to the clear and cogent logic and nervous eloquence of these papers of "Helvidius." To be properly appreciated, they must be read in full, and studied with attention, as they deserve to be, by every inquirer into the history or theory of the Constitution.

A contest in the arena of the public press, between two such champions, could not fail to draw the earnest attention of their contemporaries; for, though they engaged with visors down, they were easily recognized by the superior temper and polish of their weapons, and the practised skill with which they were wielded. Mr. Madison embarked in it, as we have seen, with great reluctance. His habitual aversion to controversy was, in this instance, increased by his knowledge of the particular character of his adversary. "One thing that particularly vexes me," he said, in an unreserved letter to a friend, "is, that I foreknow, from the prolixity and pertinacity of the writer, that the business will not be terminated by a single fire; and, of course, that I must return to the charge in order to prevent a triumph without a victory."<sup>1</sup> Happily, he was relieved from this annoyance. "Pacificus" attempted no reply; and the apologetic suggestion of one connected with him by the closest relations, that the papers of "Pacificus," being written amid harassing cares and

. . . E moribus soceri, nihil æque ac libertatem hausit. Civis, senator, maritus, gener, amicus, cunctis vitæ officiis æquabilis, opum con-

temptor, recti pervicax, constans adversus metus."

<sup>1</sup> Letter to Mr. Jefferson of 30th July, 1793.

vexations, may be liable to some "little cavils,"<sup>1</sup> would lead to the conclusion, that, if no reply to "Helvidius" was attempted, it was from the consciousness that none could be successfully made.

<sup>1</sup> Hist. Am. Rep., vol. v. p. 369.



## CHAPTER XLVIII.

Mr. Madison passes Congressional Vacation on his Farm in Virginia — Salutory Influence of Country Life on Minds of Public Men — Prediction of General Washington, Mr. Jefferson, and Mr. Madison for Rural Pursuits — Mr. Madison as a Practical Farmer — Correspondence between him and Mr. Jefferson respecting Intention of the Latter to resign Office of Secretary of State — President requests Opinion of Mr. Madison, in addition to those of Members of the Cabinet, as to his Power under the Constitution to call Congress together at another Place than the Established Seat of Government, where a Dangerous Infection had then broken out — Opinion of Mr. Madison, with that of Mr. Jefferson and of Colonel Hamilton — Meeting of the Third Congress — Changes in the Composition of the Two Houses — A Republican Speaker, Muhlenburg, elected by a Majority of Ten Votes over his Federal Competitor, Sedgwick — Speech of the President — Secretary of State sends in his Report on Privileges and Restrictions of Commerce of the United States with Foreign Countries — This his last Official Act — Distinguished Merits and Ability of Mr. Jefferson in conducting Foreign Intercourse of the Country — Serious and long-continued Embarrassments to the President from Colonel Hamilton's failing to resign, as he was considered pledged to do, at the Time Mr. Jefferson did — Report of Late Secretary of State, on Commercial Relations with Foreign Countries, taken up for Consideration — Mr. Madison moves a Series of Resolutions for Protecting, by Countervailing Regulations, Commercial Interests of United States against Injurious Restrictions of Foreign Countries, especially those of Great Britain, the most Injurious and Unjust — Debate upon the Resolutions opened by Mr. Smith, of South Carolina, in a very Elaborate Speech in opposition to them, prepared by Secretary of the Treasury — Answered by Mr. Madison — Debate becomes General, and marked,

in its Progress, by Great Vehemence and Animation — Resolutions opposed by Mr. Ames, Mr. Dexter, Mr. Sedgwick, Mr. Tracy, and other Representatives of New England ; by Mr. Dayton and Mr. Boudinot of New Jersey ; and General Smith and Mr. Vans Murray of Maryland — Supported by Mr. Clark of New Jersey ; Mr. Findley and Mr. Smilie of Pennsylvania ; Mr. Nicholas, Mr. Giles, and Mr. Moore, of Virginia — Second Speech of Mr. Madison, in which he reviews and answers the Arguments of all his Opponents — After Three Weeks' Discussion, First Resolution, affirming the *Principle* of the Measures proposed, carried by a Vote of Fifty-one to Forty-six — Further Consideration of the Subject postponed, to afford Time for fuller Information from England as to the Policy and Intentions of British Government — Letter of Mr. Madison to Mr. Jefferson, giving an Account of these Proceedings, and the Angry and Illiberal Party Spirit they awakened — Personalities of Debate.

DURING the exciting scenes and events of which we have given an account in the preceding chapter, and in which all Europe and America were deeply interested, as spectators or actors, Mr. Madison was engaged in the noiseless pursuits of the country. Immediately after the adjournment of Congress in March, he hastened back to his paternal residence in Virginia, and entered upon its quiet pleasures and employments with so much the greater zest, from the contrast they presented to the scenes of unremitted anxiety and contention which surrounded him in Philadelphia. It was impossible for him, at any time, to abstract himself wholly from objects of public interest ; but the retirement of the country, and the opportunities it afforded for restoring and refreshing the faculties by change of occupation as well as rest, enabled him to look upon those objects, however disturbing, with a

clearer and more serene vision. The wholesome influence of country life on the temper and judgment of public men has been strikingly described in a letter of this period, addressed by Edmund Burke to a member of the constituent assembly of France: —

“In England,” he says, “we cannot work so hard as Frenchmen. Frequent relaxation is necessary to us. You are naturally more intense in your application. . . . This continued, unremitted effort of the members of your assembly, I take to be one among the causes of the mischief they have done. They who always labor can have no true judgment. You never give yourselves time to cool. You never go into the country to observe the effect of your measures on their objects. You cannot feel distinctly how far the people are rendered better and improved, or more miserable and depraved, by what you have done. . . . These are among the effects of unremitted labor, when men exhaust their attention, burn out their candles, and are left in the dark. *Malo meorum negligentiam, quam istorum obscuram diligentiam.*”

Mr. Madison devoted himself with great earnestness, as well as a keen relish, to the tranquil and tranquillizing pursuits of the country; identifying himself with all its familiar and home-bred interests, and embarking with zeal in every plan for the improvement of agriculture, its processes, and its instruments. A few extracts from the unreserved daily correspondence between him and Mr. Jeffer-



son at this period will show the primitive, unadulterated tastes, and the ancient Roman simplicity and manliness, which made them, with Washington, the true representatives of the great agricultural classes and interests of America.

In his first letter after his return to Virginia,<sup>1</sup> he says, "Our fields continue to anticipate a luxuriant harvest. The greatest danger is apprehended from too rapid a vegetation, under the present warm weather. . . . Will you be so good, in case an opportunity should offer, to inquire of Dr. Logan as to the ploughs he was to have made and sent to Mrs. House's for me." In a letter written a few weeks later,<sup>2</sup> he speaks, with the anxiety and minuteness of a practical farmer, of the unfavorable change which the intervening period had made in the prospects of the crops. "Our fine prospects in the wheat field have been severely injured by the weather for some time past. The wheat had gotten safe into the head, and, with tolerable weather, would have ripened into a most exuberant harvest. . . . Should the weather be ever so favorable henceforward, a considerable proportion will be lost."

Mr. Jefferson found time, in the midst of his absorbing diplomatic labors, to execute the commission of his friend, and to indulge his yearnings for the country in a momentary recurrence to those scenes of rural life from which he was so reluctantly separated. In a letter of the 9th of June, to Mr. Madison, he says, "Your ploughs shall be

<sup>1</sup> 12th April, 1793.

<sup>2</sup> 13th June, 1793.

duly attended to. Have you taken notice of Tull's horse-hoeing plough? I am persuaded that it, where you wish your work to be very exact, and our great plough, where a less degree of exactness will suffice, leave us nothing to wish for from other countries as to ploughs, under our circumstances. I have not yet received my [Scotch] threshing-machine. I fear the late long and heavy rains have extended to us, and affected our wheat."

Mr. Madison acknowledged the receipt of this letter and of his ploughs a week later.<sup>1</sup> "My ploughs," he says, "I find have been finished and forwarded. They are not meant so much as innovations here, as models of a proper execution. One of them is the common bar share; the other, a plough preferred in the practice of Dr. Logan. I have Tull, and have noticed superficially what you allude to. We are not yet ripe for such nice work. I asked the favor of you to see to the repayment of the price, and must still rely on your goodness for that purpose. The price will be made known by Billy," — a colored servant whom Mr. Madison took with him a slave from Virginia, and left in Philadelphia a freedman; and who, from choice, continued in the service of his original master, whenever the latter was in Philadelphia.<sup>2</sup>

<sup>1</sup> 17th June, 1793.

<sup>2</sup> As it may gratify the curiosity of the reader to see Mr. Madison yet more nearly in the character of a practical and knowing farmer, we annex here one more extract of

his rustic correspondence with Mr. Jefferson. After he had made trial of his ploughs, he wrote to him: "Repeat my thanks to Dr. Logan, if you have an opportunity. The patent plough is worth looking at,

These fond allusions to rural life, and its interests and occupations, recur perpetually in all the letters of the two friends, in the midst of the gravest discussions on the relations with England and France, the treaty guarantees of 1778, the proclamation of neutrality, and the war in Europe; and of indignant lamentations over the manifesto of the Duke of Brunswick on the one hand, and the defection of General Dumourier on the other. This correspondence exhibits also another pleasing feature in the character of Mr. Madison, and of the country life and habitudes of Virginia. He gave himself up ever, with a free and congenial spirit, to the duties of hospitality and the calls of social intercourse and friendship. He had suspended the numbers of "Helvidius" in order to comply with a promise he had made of visits to two of his friends, Colonel Monroe and Colonel Wilson Cary Nicholas, residing in the adjoining county of Albemarle; and on his return to the seat of his father, after an absence of ten days, he wrote to Mr. Jefferson, "I find the house full of particular friends, who will stay some weeks, and receive and return visits, from which I cannot decently exclude myself."

if you should visit his farm. You will see your theory of a mould-board more nearly realized than in any other instance; and with the advantage of having the iron wing (which, in common bar shares as in great, lies useless under the wood) turned up into the sweep of the board, and relieving it from the brunt of the friction. By fixing

the coalter, which is detached, to the point of the share, it will, I think, be nearly complete. I purpose to have one so constructed. The detached form may answer best in old, clean ground; but will not stand the shocks of our rough and rooty land, especially in the hands of our ploughmen."—30th July, 1793.



This new but welcome interruption prevented him from continuing, as he had intended to do, the examination of the doctrines of "Pacificus" on two subordinate questions, which, however, was not essential to the completion of his general plan, or to the main object of the discussion.

We are tempted to pursue yet further the private and unreserved correspondence of these two distinguished statesmen, for the inner and authentic view it gives of the motives and causes of the retirement, which was soon to take place, of one of them, from the vexatious cares of public office. It had been the original intention of Mr. Jefferson to lay down the office of secretary of State at the expiration of the first Presidential term of General Washington, and he had accordingly apprised General Washington of that intention. But, by the earnest remonstrances and entreaties of his political friends, he was induced to delay the execution of his purpose, which was then adjourned to the ensuing summer or autumn.<sup>1</sup> In the mean time he had written to Europe for skilful workmen, to assist in executing certain architectural improvements at Monticello, reserved for the period of his retirement. On hearing of their engagement, he wrote to Mr. Madison, from Philadelphia, on the 12th of May, 1793: "I have just heard that the workmen I had desired from Europe were engaged, and about to embark,—another strong motive for making me uneasy here."

<sup>1</sup> See letter of Mr. Jefferson to his daughter, Mrs. Martha Randolph, 26th January, 1793.

This intimation excited Mr. Madison's apprehension lest Mr. Jefferson, in his yearnings for retirement and the peaceful pursuits of private life, might precipitately lay down his office; and, on the 27th of May, he wrote to him: "I feel for your situation; but you must bear it. Every consideration, private as well as public, requires a further sacrifice of your longings for the repose of Monticello. You must not make your final exit from public life till it will be marked with justifying circumstances which all good citizens will respect, and to which your friends can appeal."

To this letter Mr. Jefferson replied on the 9th of June. Admitting, without reserve, the obligations of public service which every citizen owes to his country and his friends, he reviewed the sacrifices of ease and inclination he had already made for the public cause; and insisted that those sacrifices satisfied to the full the obligations due from a good citizen to his country, and that he was now at liberty to consult his personal feelings alone. "These," he said, "lead me to seek for happiness in the lap and love of my family; in the society of my neighbors and my books; in the wholesome occupations of my farm and my affairs; in an interest or affection in every bud that opens, in every breath that blows around me; in an entire freedom of rest or motion, of thought or incogitancy, — owing an account to myself alone of my hours and actions.

"What must be the principle of that calculation, which should balance against these the circum-

stances of my present existence, — worn down with labors from morning to night and day to day; knowing them as fruitless to others as they are vexatious to myself; committed singly, in desperate and eternal contest, against a host who are systematically undermining the public liberty and prosperity; the rare hours of relaxation sacrificed to the society of persons in the same intentions, of whose hatred I am conscious, even in those moments of conviviality, when the heart wishes most to open itself to the effusions of friendship and confidence; cut off from my family and friends; my affairs abandoned to chaos and derangement; in short, giving every thing I love in exchange for every thing I hate? . . . Indeed, my dear friend, duty being out of the question, inclination cuts off all argument; and so never let there be more between you and me on this subject.”

Mr. Madison had too much respect and sympathy for the feelings of his friend, and recognized too sensibly the force of this vivid portraiture of them, to press him further. On the 31st of July, 1793, Mr. Jefferson addressed a letter to the President, informing him of his intention to resign the office of secretary of State at the close of the month of September; and adding assurances that “no man living more sincerely wishes that your administration could be rendered as pleasant to yourself as it is useful and necessary to your country, nor feels for you a more rational or cordial attachment and respect than I do.” According to a memorandum made by Mr. Jefferson at the time, and since pub-



lished with his writings,<sup>1</sup> the President called upon him, a few days afterwards, at his house in the vicinity of Philadelphia, and expressed an earnest desire that he would retain his place in the cabinet till the close of the year, if no longer. The whole of the President's conversation showed that he, at least, appreciated the full value of Mr. Jefferson's experience and abilities to the country, and the importance of his continued co-operation in the labors of the administration. To an appeal so flattering and imposing, Mr. Jefferson yielded so far as to consent to postpone his resignation to the last day of December.

In writing to Mr. Madison, on the 11th of August, Mr. Jefferson communicated to him, in strict confidence, a copy of the memorandum of what had passed between him and the President, "to be kept sacredly to yourself, unless you have an opportunity of communicating it to Monroe." This paper was received, through a private conveyance, while Mr. Madison was on his visit to Colonel Monroe, and was of course made known to him. The answer of Mr. Madison, and the sentiments of himself and Colonel Monroe, give an interesting insight into the secret political history of the times.

"Monroe and myself," he said, "read with attention your despatch by D. M. R. [David Meade Randolph], and had much conversation on what passed between you and the President. It appeared to both of us, that a real anxiety was marked to

<sup>1</sup> See Jefferson's Writings, vol. iv. pp. 492-495.

retain you in office; that, over and above other motives, it was felt that your presence and implied sanction might be a necessary shield against certain criticisms from certain quarters; that the departure of the only counsellor possessing the confidence of the Republicans, would be a signal for new, and perhaps very disagreeable, attacks; that, in this point of view, the respectful and conciliatory language of the President is worthy of particular attention; and that it affords a better hope than has existed of your being able to command attention, and to moderate the predominant tone.

“ We agreed in opinion also, that, whilst this end is pursued, it would be wise to make as few concessions as possible that might embarrass the free pursuit of measures which may be dictated by republican principles and required by the public good. In a word, we think you ought to make the most of the value we perceive to be placed on your participation in the executive councils. I am extremely glad to find that you will remain another quarter. The season will be more *apropos* in several respects; and it will prevent any co-operation, which a successor might be disposed to make, towards a final breach with France. I have little hope that you will have one whose policy will have the same healing tendency with yours. . . . Monroe is particularly solicitous that you should take the view of your present position and opportunities suggested above.”<sup>1</sup>

<sup>1</sup> Letter to Mr. Jefferson of 2d September, 1793.

Two or three weeks after the date of this correspondence, Mr. Jefferson returned to Virginia, and enjoyed a temporary respite from the cares and labors of his office, previously to his final withdrawal from it at the close of the year. The yellow fever had broken out in Philadelphia about the first of September. The President was already at Mount Vernon; and the increasing violence of the pest drove away almost all the officers of the government, with the greater part of the population of the city. The occurrence of this formidable contagion, and the apprehension of its continuance down to the period fixed for the re-assembling of Congress, presented a question of great delicacy for the consideration of the President. By the Constitution, he was invested with the power of "convening Congress on extraordinary occasions." But did this power include that of convening them at a different *place* from that established by law as the place of their meeting and the seat of government? Desirous, as far as he had the power of doing so, to avoid exposing the members of Congress and the officers of the government to the danger of the terrific infection prevailing in Philadelphia, he wrote, from Mount Vernon, to the several members of the cabinet, asking their opinions on this doubtful point of constitutional construction.

Mr. Jefferson was of opinion, that "the only circumstance the President can alter is that of *time*, by calling them at an earlier day than that to which they stand adjourned; but no power to change the



*place* is given." Colonel Hamilton, on the other hand, thought that the President's power extends to place as well as time; there being no restrictive words as to either in the clause conferring the power. His only doubt was whether the President could change the place, without *anticipating* the time of meeting, which in the present instance was not proposed to be done. Our motive, however, for referring to this subject, is not to enter into any discussion of the correctness of the opinions given, but to notice the new and signal evidence, which the occasion brought forth, of the confidence reposed by the President in Mr. Madison, and the deep respect felt for his opinions, notwithstanding the well-known opposition of political principles and views between him and the secretary of the treasury, that had been recently and so publicly manifested.

On the very day that the President wrote to Colonel Hamilton for his official opinion on the legality and propriety of convening Congress at some other place than Philadelphia, and three days after he had written to the secretary of State for his opinion, he applied to Mr. Madison, in a spirit of personal and unreserved confidence, independent of and superior to any official tie, for his counsel and advice on the same delicate topic. "What, then, do you think," he said in his letter to Mr. Madison, "is the most advisable course for me to pursue in the present exigency? Summon Congress to meet, at a certain time and place, in their legislative capacity? Simply state facts, and say that I will

meet the members at the time and place mentioned for ulterior arrangements? Or leave matters as they are, if there is no power in the executive to alter the place legally?" He carried this flattering and ingenuous confidence one step further. "I would even," he said, "ask more. I would thank you, not being acquainted myself with forms, to sketch some instrument for publication, adapted to the course you may think it most expedient for me to pursue in the present state of things, if the members are called together, as before mentioned."<sup>1</sup>

Mr. Madison, appreciating with becoming sensibility so peculiar and distinguished a mark of confidence on the part of the President, lost not a moment in responding to it. He gave his opinion, that the President's power of "convening Congress on extraordinary occasions" implies no authority to change the place of meeting, "the obvious import of the terms being satisfied by referring them to the time only;" and that as great jealousy had been discovered, in the formation of the Constitution, in every thing connected with the residence of the general government, the well-known existence of that jealousy forbade the supposition that it could have been intended to intrust any single department of the government with a controlling power over the subject. He therefore advised that the President should simply make known the obstacles that existed to the meeting of Congress in the city of

<sup>1</sup> See this letter in Sparks's *Washington*, vol. x. pp. 379-381.

Philadelphia, and recommend to the members to assemble, on a given day, at some other place, where he would himself be ready to meet them; and, in further compliance with the President's wishes, he communicated to him at the same time what appeared a suitable form for such a notification.

Happily, the rapid abatement of the infection rendered it unnecessary, in the end, for the President to take any action on the subject. He and the heads of department, with the subordinate officers of government, who had been sojourning in the neighboring village of Germantown for the month previous, returned to the city of Philadelphia in time to meet Congress there on their usual day of assembling. On that day, — the first Monday in December, and the second day of the month, — a sufficient number of members were present to form a quorum of each House. Besides the interesting state of public affairs, the election to be made of a new presiding officer for the House of Representatives, which was looked to with solicitude as a trial of strength between the two political parties in the new Congress, created a special inducement for the punctual attendance of members. The total number of representatives, which in the last Congress was sixty-nine, was now increased, under the operation of the census, to one hundred and five, who, it was supposed, would more truly reflect the national sentiment. Mr. Muhlenburg, the candidate of the Republican party for the chair, was elected



over Mr. Sedgwick, the Federal candidate, by a majority of ten votes.<sup>1</sup>

On the 3d day of December, the opening speech of the President was delivered before the two Houses assembled in the Senate chamber. It reviewed, in general terms, the questions affecting the

<sup>1</sup> In the new House of Representatives, Virginia had nineteen members,—five more than Massachusetts, the next highest at that time in population and representative numbers,—a circumstance which concurred with other causes to render Virginia a special object of jealousy to the Eastern States. In the catalogue of her new members was John Nicholas, who took a distinguished rank, among the representatives of the State, in the political struggles from that time to the close of Mr. Adams's administration. In the new arrangement of the congressional districts of the State, Mr. Madison's old district was broken up and divided; and he was succeeded, in the severed portion of it, by Colonel Francis Walker, of Albemarle. John Taylor, of Caroline, had been elected to the Senate of the United States the year before, in the place of Richard Henry Lee, resigned; and was now, with Mr. Monroe, a member of that body from Virginia. Among the new representatives from other States, were Samuel Dexter and General Dearborn of Massachusetts, Uriah Tracy of Connecticut, General Samuel Smith of Maryland, and General Andrew Pickens of South Carolina.

In this Congress, also, Albert Gallatin made his first appearance on the national theatre, as senator elect from the State of Pennsylvania. His election was contested, on the ground that he had not been nine years a citizen of the United States, as required by the Constitution; and on that ground his election was, by a vote of the Senate on the 28th of February, 1794, declared void. His brief appearance in the Senate, however, was the occasion of an important reform in the rules of that body, which had long been sought in vain. Its habit of conducting all its proceedings with closed doors had given great and just offence to the republican sentiment of the country; but every effort to change it had hitherto failed. On the 11th of February, 1794, the Senate resolved to throw open its doors during the discussion on the contested election of Mr. Gallatin. This broke the spell of deliberations in conclave; and a few days afterwards, on the 20th of the same month, a general resolution was adopted by the Senate, that, after the end of the present annual session, its proceedings in its legislative capacity should be with open doors; unless in special cases, which, in the judgment of the body, should require secrecy.

United States, which had arisen out of the war in Europe; explained the system of conduct which had been adopted and pursued towards the belligerents; and presented the proclamation of the 22d of April as “a *declaration of the existing legal state of things*,” intended to admonish our citizens against acts hostile to any of the parties, and thereby to secure from those parties a more scrupulous observance of the immunities belonging to our position as a neutral power. This frank and unequivocal construction, given to the proclamation by the President himself, protected it from all criticism.<sup>1</sup> Mr. Madison, as usual, was the chairman of the committee of the House of Representatives to prepare the address, which was cordially responsive to the speech, and was unanimously adopted by the House as reported from the committee.

On the 5th day of December, the President sent a written message to the two Houses, referring specially to our relations with France and Great Britain, and accompanied by copies of the correspondence that had taken place between the secretary of State and the ministers of those two nations respectively. The relations with Spain, which seemed to be more immediately approaching the crisis of a definitive rupture, were reserved for a

<sup>1</sup> In notes made by the President for his speech (which see in Hamilton's Works, vol. iv. p. 482), the fundamental idea, from which he never departed, as to the true character and purport of the procla-

mation, was embodied in almost the very words ultimately used, — “to inform the United States of the *actual state of things*, as they stood between them and the powers at war.”

separate and confidential communication, which was made to both Houses on the 16th of the month. The representatives of the nation were thus placed in full possession of all the information, respecting the political relations of the United States with Europe, necessary to enlighten and guide their deliberations, at a moment when those relations had assumed a most interesting character, and involved questions of the highest national importance.

In addition to these communications from the President, the secretary of State, on the 19th of December, laid before the House of Representatives a report prepared by him, in obedience to a call of the House, on the commercial relations of the United States with the different powers of Europe. This call had been made more than two years ago,—soon after a communication from the President, showing the abortive result of his efforts to induce the British government “to enter into arrangements, by mutual consent, which might fix the commerce of the two nations on principles of reciprocal advantage.”<sup>1</sup> This communication, when received, was referred to a committee of the House, of which Mr. Madison was a member; and their report was, on the 23d of February, 1791, referred to the secretary of State, who was directed “to report to Congress the nature and extent of the privileges and restrictions of the commercial intercourse of the United States with foreign nations, and such measures as he shall think proper to be adopted

<sup>1</sup> See *Annals of Congress* (1789–1791), p. 2015.



for the improvement of the commerce and navigation of the United States." The arrival of the British Minister in the autumn of that year, with other circumstances which encouraged the hope of some favorable change, by negotiation or otherwise, in the dispositions of the British government, led to the withholding of the report, by the advice of the House, until the present time.<sup>1</sup>

The report presents a general and succinct view of the commerce of the United States with those nations with which they then had the chief intercourse, — Great Britain, France, Spain, the United Netherlands, Sweden, and Denmark, and their American possessions; the objects which entered mainly into the commerce with each; and the degree of favor or disfavor with which the productions and navigation of the United States were treated by each, whether in their home or colonial trade. The secretary declares the true policy and wish of the United States to be a liberal and unshackled trade with all the world, freely exchanging with other nations mutual surpluses for mutual wants. "But," he adds, "should any nation, contrary to our wishes, suppose it may better find its advantage by continuing its system of prohibitions, duties, and regulations, it behooves us to protect our citizens, their commerce, and navigation by counter prohibitions, duties, and regulations also. Free commerce and navigation are not to be given in

<sup>1</sup> See Jefferson's Writings, vol. III. p. 210; and Annals of Congress (1791-1793), p. 885.

exchange for restrictions and vexations ; nor are they likely to produce a relaxation of them."

He then proposes, as leading corrective measures, that where other nations impose high duties on our productions, or prohibit them altogether, we should do the same by theirs ; where they refuse to receive in our vessels any productions but our own, we should refuse to receive in theirs any but their own ; and where they refuse to our vessels the carriage, even of our own productions, to certain countries under their domination, we should refuse to theirs the carriage from our ports of the same productions to the same countries. Of the suggested remedies, the last two, as we have seen, had been actually brought forward in Congress by Mr. Madison more than two years before.<sup>1</sup> By the operation of some of the illiberal principles thus

<sup>1</sup> See ante, chap. xli. pp. 133-138 ; see also chap. xxxvii. pp. 20-29. Mr. Randall, the intelligent biographer of Mr. Jefferson (see *Life of Jefferson*, vol. ii. p. 214), thinks that, though Mr. Madison was the first public proposer and champion of the policy of retaliation against foreign nations imposing unjust restrictions on the commerce of the United States, the policy itself originated with Mr. Jefferson, and was by him, probably, suggested to Mr. Madison. This hypothesis, besides the misconception it involves of the character of Mr. Madison as an original and independent thinker, is contradicted by the simple chronology of events. Mr. Madison's first propo-

sition on the subject, most ably and fully developed, was brought forward by him in Congress, as we have seen (ante, chap. xxxvii. pp. 20-29), in the spring of 1789, while Mr. Jefferson was yet residing in France as Minister of the United States, and wholly occupied with other duties. Mr. Madison was the *real leader*, not only in this policy, but in the opposition to the funding and assumption systems of Colonel Hamilton ; of the latter of which Mr. Jefferson was, according to his own frank avowal, at first made the dupe. — See Mr. Jefferson's statement (4th volume of his *Writings*, pp. 447-449), referred to ante, chap. xl. pp. 113, 114.

proposed to be counteracted, "Great Britain alone," the secretary said, "has already lost us, in our commerce with that country and its possessions, between eight and nine hundred vessels of near forty thousand tons burden, according to statements from official materials in which they have confidence. This involves a proportional loss of seamen, shipwrights, and shipbuilding; and is too serious a loss to admit forbearance of some effectual remedy."

The report concludes with the following summary view of the dispositions manifested by the different powers to enter into fair reciprocal arrangements with the United States: "France has, of her own accord, proposed negotiations for improving by a new treaty, on fair and equal principles, the commercial relations of the two countries. But her internal disturbances have hitherto prevented the prosecution of them to effect, though we have had repeated assurances of a continuance of the disposition. Proposals of friendly arrangement have been made, on our part, by the present government to that of Great Britain, as the message states; but being on as good a footing in law, and better in fact than the most favored nations, they have not yet discovered any disposition to have it meddled with. We have no reason to conclude that friendly arrangements would be declined by the other nations, with whom we have such commercial intercourse as may render them desirable."

This report, with a supplement to it sent to the



House of Representatives on the 30th day of December, was the last official act, of any importance, of Mr. Jefferson as secretary of State. On the following day, the 31st of the month, he formally resigned into the hands of the President the office, the duties of which he had fulfilled with such distinguished ability for the last four years. The President, in accepting his resignation, which he did with deep regret, rendered the warmest testimony to the integrity and talents so eminently displayed by him in his office; declaring that "the high opinion of these, which had dictated his original nomination, had been confirmed by the fullest experience," and adding "the most earnest prayers for his happiness in the retirement on which he was about to enter."

The withdrawal of Mr. Jefferson from the official position he held, supposing it to be justified by the circumstances and considerations which led to it, was nevertheless an event deeply to be deplored. He had inaugurated our foreign intercourse, under the new government, with a high-bred courtesy and *bienséance*, so essential to its delicate relations, which he had acquired in the highest school of diplomacy abroad; and the more arduous and complicated business of his office was discharged by him with a varied and accomplished ability, of which the traces will ever remain conspicuous, not only in the archives of the department, but in the public history of the country and the times. During his occupancy of the department, questions of

the gravest and most difficult character, threatening the peace and involving the honor of the nation, arose with the three greatest powers of Europe, England, France, and Spain; and the elaborate discussions into which he was drawn with all of them at the same time, besides the unsurpassed learning, eloquence, and ability they display, are monuments of an industry, application, and capacity of labor which are truly marvellous.<sup>1</sup>

The retirement of so able and faithful an officer was not only an absolute loss to the public service, but a source of embarrassment to the President in finding a competent successor, greatly enhanced by the circumstance of Colonel Hamilton's still holding on to the office of secretary of the treasury, which he had notified his intention of resigning, but at a later period. The peculiar embarrassment arising from this circumstance, the President frankly stated in a free and unreserved conversation held with Mr. Jefferson at the time. "Your and Colonel Hamilton's going out at times so different," said he, "increases the difficulty; for, if the President had both places to fill at once, he might consult both the particular talents and geographical situation of our successors."<sup>2</sup> At the time when the divisions in the cabinet between Colonel Hamilton and Mr. Jefferson first assumed a serious and disturbing

<sup>1</sup> Mr. Jefferson informed the author of this work, that he labored fourteen hours a day during the greater part of the time he was secretary of State.

<sup>2</sup> See memorandum of a conversation with the President, recorded at the time of its occurrence by Mr. Jefferson. *Jefferson's Writings*, vol. iv. pp. 492-495.

character, the former wrote to the President, that, if a reconciliation could not be effected, "he did not hesitate to say, that, in his opinion, the period was not remote when the public good will require *substitutes* for the differing members of your administration."<sup>1</sup> This was evidently the remedy, prescribed equally by considerations of delicacy towards the President and of regard to the public interest, for a schism which was exerting a most baleful influence on the administration of public affairs.

Mr. Jefferson opened the way for the application of this remedy by the resignation of his office; and, if Colonel Hamilton had promptly followed the example, the President would have had but little difficulty in finding able and suitable persons, having regard alike to personal qualifications and geographical position, to fill both vacancies. Chancellor Livingston, of New York, who had been secretary for foreign affairs under the confederation, and Governor Johnson of Maryland, supposed to be specially fitted to the treasury department, and both of them men of the highest public consideration, would in that case have been probably selected to fill the two vacant offices, according to their respective and peculiar qualifications. But, while Colonel Hamilton remained in the cabinet, it was impossible to introduce into it another distinguished citizen of New York.<sup>2</sup> This difficulty was

<sup>1</sup> Colonel Hamilton's letter to the President, 9th September, 1792. — Sparks's Washington, vol. x. p. 515.

<sup>2</sup> We learn from a manuscript letter of Mr. Jefferson to Mr. Madison of 2d November, 1793, that, from the obstacle to Mr. Liv-



sorely felt by the President, and insisted upon as an insuperable obstacle to a desirable arrangement in the conversation with Mr. Jefferson to which we have already referred. It ultimately drove him to an unfortunate selection for the office of secretary of State; which, there is every reason to believe, would not have been thought of, if a wider and more unshackled choice had been left open to him by the opportunity of filling, at the same time, the offices of State and treasury.<sup>1</sup>

ington's appointment, the office of secretary of State was offered to Governor Johnson; but he declined it, as he did on a future occasion, alleging his want of the special qualifications necessary for that office.

<sup>1</sup> Mr. Jefferson has been most gratuitously accused of "foisting Mr. Randolph into the high office of secretary of State."—Hist. Am. Rep., vol. v. p. 441. His whole correspondence of this period shows, on the contrary, how much he deprecated the selection. A mere suggestion to assign the duties of the office, "*par intérim*," to the attorney-general, in order to afford the President more time to make a suitable appointment, was certainly a very different thing from recommending him as the permanent incumbent. The suggestion, too, was accompanied with remarks which plainly showed Mr. Jefferson's opinion of the unfitness of Mr. Randolph for the office. (See memorandum of his conversation with the President.) In his unreserved correspondence with

Mr. Madison, he repeatedly speaks of the radical defects of Mr. Randolph's constitution of mind, as wholly unfitting him for high official station. In a letter of the 12th of May, 1793, he says, "He is the most indecisive person I ever had to do business with. He always contrives to agree in principle with one party, but in conclusion with the other."

In another letter to Mr. Madison, of the 11th August, 1793, after he had announced to the President his definitive resolution to withdraw from the office of secretary of State, and when various persons were brought under review for the succession, he gives the following graphic picture of Mr. Randolph's infirmities of character: "I can, by this confidential conveyance, speak more freely of Randolph. He is the poorest chameleon I ever saw, having no color of his own, and reflecting that nearest him. When he is with me, he is a whig; when with Hamilton, a tory; when with the President, he is what he thinks will please him. The last

In a dispassionate review of these events, it may well be asked if a just sense of his position, of delicacy with regard both to himself and the President, as well as the satisfaction and repose of the public mind, did not require of Colonel Hamilton his withdrawal from the cabinet at the time when his more magnanimous rival withdrew. He himself for a time seems to have thought so; for not only in his letter of the 9th of September, 1792, did he use the emphatic language we have already cited, but again in a letter of the 21st of June, 1793, he tells the President, "Considerations, relative to the public interest and my own delicacy, have brought me, after mature reflection, to a resolution to resign."<sup>1</sup> Should not his resignation, then, have been contemporaneous with that of Mr. Jefferson? For thus only could the President have been set free from his embarrassments, and have enjoyed an entire

is his strongest hue, though the second tinges him very strongly. The first is what, I think, he would prefer in his heart, if he were in the woods where he could see nobody, or in a society of all whigs. . . . He has really some good private qualities; but he is in a station infinitely too important for his understanding, his firmness, and his circumstances."

It is with reluctance and regret that we have given these extracts from the correspondence of Mr. Jefferson with Mr. Madison, relating to one who seems to have possessed many amiable personal qualities; but as they are essential to the truth of history, and as one

of them and a *portion* of the other have been already given to the public (of the first in Randall's Jefferson, vol. II. pp. 130, 131; and of the second in Tucker's, vol. I. pp. 446, 447), we have thought it proper to give fuller and more accurate citations of them from the original manuscript letters; especially as, in doing so, the lights, as well as the shades, of the picture are preserved.

<sup>1</sup> Though Colonel Hamilton announced to the President his resolution to resign, and fixed a period for doing so, he postponed his resignation from time to time, until more than a year elapsed from Mr. Jefferson's resignation to his own.

liberty of action and command of the talents of the country in the reconstruction of his cabinet, according to his own views of policy and the exigencies of the situation. In contemplating the obstacles thrown in the way of the President, and the cruel mortifications which flowed from them, directly or indirectly, at a future period of his administration, as we shall hereafter see,<sup>1</sup> history will demand an account of the motives which interposed these obstacles; and, if selfishness or ambition or party interests shall appear to have mingled with them, its inexorable verdict will be pronounced accordingly.<sup>2</sup>

<sup>1</sup> Post, chap. LI. pp. 485-490; and chap. LII. pp. 534-539.

<sup>2</sup> A writer, exceedingly well-informed, in general, as to the transactions of this period, and withal a just and candid appreciator of character, rather intimates a censure of Mr. Madison for not taking the office of secretary of State, after Mr. Jefferson resigned it. (*Randall's Life of Jefferson*, vol. II. pp. 246, 247.) The truth is, that the President, properly appreciating the obstacles to Mr. Madison's acceptance, did not propose the appointment to him. He said to Mr. Jefferson, that "Mr. Madison would be his first choice; but that he had always expressed to him such a decision against public office, that he could not expect he would undertake it." Mr. Madison, when apprised of this declaration of the President, wrote to Mr. Jefferson, "I am glad the President rightly infers my deter-

mination from antecedent circumstances, so as to free me from imputations in his mind connected with the present state of things." — Letter of 2d September, 1793.

Mr. Madison considered that his peculiar sphere of usefulness and duty, in contributing to aid and give a right direction to the early operations of the government, was in the House of Representatives; and, under that conviction, he had not only eschewed all cabinet appointments, but declined a most tempting offer of the French mission, which, Mr. Jefferson informs us, "was kept open for him by the President a twelvemonth after his own return." — *Jefferson's Writings*, vol. IV. p. 502. But if Mr. Madison could have been induced to abandon what he conceived to be his appropriate vocation in the House of Representatives, where his services were certainly not less important at this time than at any



The report of the secretary of State, on the privileges and restrictions of the commerce of the United States in foreign countries, was, when received, referred to the consideration of the House in Committee of the Whole. On the 3d day of January, 1794, it was taken up for consideration, when Mr. Madison offered a series of resolutions, proposing additional duties on the manufactures and shipping of countries having no commercial treaty with the United States; and also a specific retaliation of all restrictions, according to the nature of those restrictions in each particular case, imposed by foreign governments on the navigation and trade of the United States. In introducing these resolutions, he reminded the House, that one of the chief objects which had led to the establishment of the Consti-

antecedent period, it was plainly impossible for him to have gone into the cabinet, Colonel Hamilton being still a member, without renewing those pernicious, as well as painful, internal conflicts which had led to Mr. Jefferson's retirement from it.

On the other hand, had Colonel Hamilton withdrawn when Mr. Jefferson did, and it had been still the wish of the President, as it doubtless was, to maintain a balance of parties in his cabinet, we can see no reason, in that case, why such able and courteous exponents of the opposing systems as King of New York, and Madison of Virginia, for example, should not have met each other in amicable discussion at the council-board, and submitted their differing views, when

they could not agree, to the high umpirage of the President. If there ever was an executive magistrate qualified, by his cool and serene judgment, by his disinterested public spirit, and by his elevated personal character, to fill the illustrious rôle of a patriot ruler, to be the arbiter of the political dissensions of his countrymen, without taking part in them, — to be, in truth, the head of the nation, and not the chief of a party, — it was Washington; and such, unquestionably, was the conception of his position which he was most ardently anxious to fulfil. But to every practicable combination for still pursuing and acting upon it after the resignation of Mr. Jefferson, the continuance of Colonel Hamilton in the cabinet was an insuperable barrier.

tution was to vest in the general government the power of regulating commerce, with a view to enforce reciprocity of treatment from foreign governments. The time was now come, he said, when the exercise of this power, "with moderation, firmness, and decision," was called for. "It was in the power of the United States, by exerting their natural rights, without violating the rights or even equitable pretensions of other nations, — by doing no more than *most* nations do for the protection of their interests, and much less than *some*, — to cause their rights and their interests to be properly respected."

After some conversation as to the proper time for entering on the discussion of these propositions, the further consideration of them was postponed to the 13th of January. On that day, Mr. Smith, of South Carolina, entered the lists against them with an elaborate, astute, and highly militant and aggressive argument, which attracted the more attention, as being suspected at the time to emanate from the secretary of the treasury, by whom it is now known to have been carefully prepared, Mr. Smith being merely his spokesman.<sup>1</sup> In this speech the

<sup>1</sup> The biographer of Colonel Hamilton says that "this elaborate performance was from the pen of Hamilton, as appears from his autograph draft; and that the fact was subsequently avowed by the member himself to whom it was intrusted." — See Hist. Am. Rep., vol. v. p. 450. Mr. Jefferson, when the speech reached him in his retirement at Monticello, pronounced,

from the internal evidence alone, "Every tittle of it is Hamilton's, except the introduction. There is scarcely any thing there which I have not heard from him in our various private, though official, discussions. The very turn of the arguments is the same; and others will see, as well as myself, that the style is Hamilton's." — Letter to Mr. Madison, 3d April, 1794.

report of the secretary of State was freely assailed ; the accuracy of its statements impugned ; and the ground boldly assumed, not only in opposition to the report, but to the message of the President himself, that the commercial system of Great Britain towards the United States was even more favorable than that of France. This startling proposition was attempted to be maintained by taking for the epoch of comparison a period antecedent to the French revolution, and also by waking up from the statute roll of England some obsolete relics of her ancient legislation in favor of American trade while the United States were her colonies, and which, being wholly inoperative, it had never been thought necessary formally to repeal.

But the author of the speech, however ingeniously he labored this point, evidently placed no reliance on it. The stress of his opposition to the resolutions was in the apprehension he sought to inculcate, that their adoption would certainly lead to a war, either of arms or of further commercial restrictions, with England. The former, he thought, was by no means improbable. "A direct and immediate war between us," he said, "would not be surprising ; but, if this should not be the case, mutual ill offices and irritations, which naturally grow out of such a state of things, would be apt quickly to lead to it. It may be asked, are we to sit with folded arms, and tamely submit to all oppressions, exclusions, and restrictions to which our trade is subject ? If not, what are we to do ?



I answer, nothing, certainly, at the present juncture." He added, "I answer, further, that we ought, with great caution, to attempt any thing, at a *future day*, until we have acquired a maturity which will enable us to act with greater effect, and to brave the consequences, even if they should amount to war; and until we have secured more adequate means of internal supply." A policy of tamer acquiescence or more passive submission could not have been recommended if America had still been in a condition of colonial dependence.<sup>1</sup>

On the following day, contrary to what had been expected, no disposition being manifested by the opponents of the resolutions to engage in the discussion at that time, Mr. Madison rose, and, with great calmness and dignity, exposed some of the fallacies of the speech which had been delivered the day before. He began by presenting, in a few pregnant words, the manifestly unequal and injurious footing of the commercial intercourse between Great Britain and the United States.

"On the subject of navigation," he observed, "we were prohibited by the British laws from carrying to Great Britain the produce of other countries from their ports, or our own produce from the ports of other countries, or the produce of other countries from our own ports, or to send our own produce from our own or other ports in the vessels of other countries. . . . On the other hand, the laws

<sup>1</sup> See this remarkable speech in *Annals of Congress* (1793-1795), pp. 174-209.

of the United States allowed Great Britain to bring into their ports any thing she might please from her own or from other ports, or in her own or other vessels. In the trade between the United States and the British West Indies, the vessels of the former were under an absolute prohibition; while British vessels in that trade enjoyed all the privileges granted to other, *even the most favored nations*, in their trade with us. The inequality in this case was the more striking, as it was evident that the West Indies were dependent on the United States for the supplies essential to them, and that the circumstances which secured to the United States this advantage enabled their vessels to transport the supplies on far better terms than could be done by the British vessels."

He proceeded, next, to notice the state of the trade between the two countries in the exchange of their respective productions. "We consume," he said, "British manufactures to double the amount of what Britain takes from us, and quadruple the amount of what she actually consumes. We take every thing after it has undergone all the profitable labor that can be bestowed upon it; she receives in return raw materials, the food of her industry. We send necessaries to her; she sends superfluities to us. We admit every thing she pleases to send us, whether of her own or alien production; she refuses not only our manufactures, but the articles we wish most to send her, — our wheat and flour, our fish and our salted provisions. These

constitute our best staples for exportation, as her manufactures do hers."

In answer to the allegations contained in the speech pronounced by Mr. Smith, with regard to the commercial treatment of the United States by Great Britain and France respectively, after repeating the statement of the President's message,—"that France had generally manifested a friendly disposition towards the United States, had granted advantages to their commerce, and made overtures for placing it permanently on a better footing,"—he entered into a specific detail of the actual regulations of the two countries, and showed that many of the most important productions of the United States—wheat, flour, rice, salted provisions, fish, whale-oil, naval stores—were admitted into France either free or at extremely light duties, while in Great Britain they were prohibited, or subject to duties virtually prohibitory. He pointed out, in the nature of the commerce between the United States and Great Britain,—in her double dependence on the United States as customers for her manufactures, and as furnishers of raw materials for her industry and of the means of subsistence for a portion of her dominions,—the utter improbability of any resort, on her part, which would involve a serious interruption of that commerce. As to the apprehension of a war, resulting from the adoption of the resolutions under consideration, he said,—

"Of all the objections he had heard against the



resolutions, the most extravagant and chimerical was the idea of a war with Great Britain in consequence of them. He was at a loss to say whether such an objection was a greater insult to the character of that nation, or to the understanding of America. At the utmost, the propositions go only to a reciprocity. They do not in fact go so far. On what imaginable pretext, then, can Great Britain make a war upon us? If we are no longer *colonies*, but *independent States*, we surely can do what all independent States do,—regulate our trade as suits our interests; and Great Britain can have the least right of any nation to complain of it, because it is her own example which we follow. If war, therefore, should be made upon us, it will prove a predetermination to make it; and, in that case, pretexts more plausible than any commercial regulations could easily be found or framed for the purpose.”<sup>1</sup>

<sup>1</sup> In the further progress of the debate, this objection to the resolutions was again brought forward by Mr. Dexter of Massachusetts, when Mr. Madison made the following animated reply:—

“He wondered how gentlemen could suppose that *war* was involved in the proposition on the table. Did they suppose Great Britain to be so unwise or so unjust as to declare a war? Every consideration of interest must prevent it. He hoped we did not now deliberate as a colony, but as an independent people, whose measures were not to be dictated by any

other power. What could Great Britain gain by a contest? Would war employ her starving manufacturers? Would war furnish provisions to her West-India islands, which, in that case, must also starve? Would war give employment to the vessels that had formerly imported luxuries to America? Were Great Britain to declare war, he could give no name equal to her folly. She would plunge ten times deeper into the difficulties she wanted to avoid; and every counter-regulation would be a stroke against herself.”

He referred to the bill introduced by Mr. Pitt, soon after the close of the war of the Revolution, for putting the trade with the United States on a footing of reciprocity, as evidence of the corrective efficacy of the measures now proposed. The bill was brought forward under an apprehension, that the United States, after the achievement of their independence, would adopt a policy of counter-action, if Great Britain persisted in her system of restrictions on the trade of America. But Lord Sheffield and others having satisfied the Minister, that, from the want of any central authority at that time in the United States to regulate commerce, and from the impossibility of concert in the separate action of the States, no such retaliatory policy was to be apprehended, he at once withdrew his bill, and nothing was done. "Now," said Mr. Madison, "that the general government is armed with full power for the regulation of commerce, if we shrink from the exercise of that power as an equitable and peaceable means of obtaining justice, it must convey the most unfavorable impressions of our national character, and rivet the fetters on our commerce, as well as prolong other causes which had already produced such injurious consequences to the country."

The debate on the resolutions now became general, and enlisted the leading talents of the House on both sides. They were warmly opposed by Mr. Ames, Mr. Dexter, Mr. Goodhue, and Mr. Sedgwick, of Massachusetts; Mr. Tracy, Mr. Hillhouse,

and Mr. Wadsworth, of Connecticut; Mr. Dayton and Mr. Boudinot, of New Jersey; General Smith and Mr. Vans Murray, of Maryland. Besides Mr. Madison, his colleagues, Mr. Nicholas, Mr. Giles, and Mr. Moore; Mr. Findley and Mr. Smilie of Pennsylvania; and Mr. Abraham Clark, the Nestor of the New-Jersey delegation, — rallied with vigor and earnestness to their support. As the discussion advanced, it became more and more animated, and embraced a wider and yet wider range of topics, involving not merely the commercial but the political relations of the United States with the two principal powers of Europe, Great Britain and France. In the very outset of the debate, Mr. Ames expressed the opinion, notwithstanding the many evidences which had been given to the contrary, that Great Britain was actuated by an “amicable disposition” towards the United States; and more than once called on gentlemen for a statement of the “specific grievances” on which their accusations against her were founded.<sup>1</sup>

To this challenge Mr. Giles replied, by alleging that Great Britain had committed hostilities against the lawful commerce of the United States, under wholly unwarrantable pretexts.

“She has seized,” he said, “our vessels on the high seas, and prevented them from conveying to our friend and ally goods not contraband of war, and compelled them to make sales to herself or her allies. She has forced them to deviate from their

<sup>1</sup> See *Annals of Congress* (1793–1795), pp. 226, 274, 310.



voyages; and, to their great hazard and loss, detained them for trial on frivolous pretences. . . . She has been the instrument of letting loose the pirates of the Barbary States upon our citizens and trade. This fact, however doubted upon the first report, is placed beyond question by the late conduct of Portugal towards our vessels in her ports. Are these facts denied? If not, do they not operate directly and specifically upon our commerce? Is it not astonishing, after all these facts are known, and often repeated, that gentlemen should be heard to inquire what injuries have we received from Great Britain, and to infer that the United States are equally favored with other nations?"

To this list of grievances, Mr. Clark, who had been a member of the old Congress, and a signer of the Declaration of Independence, and had been for many years, therefore, a witness of the injustice of the British government, added, with epigrammatic brevity, other wrongs of a more ancient date, but of a not less unwarrantable character.

"We had many wrongs," he said, "to complain of, and we should endeavor to obtain redress for them all. The English have violated the treaty of peace, just after it was made, by taking away our negroes, and, since, by holding our posts. They have set the savages on our backs; and have they not now let loose the Algerines upon us? But it is asked, how can we help ourselves. They will retaliate, we are told. How retaliate? Will they refuse to sell us their manufactures? He

remembered that, even in old times, a non-importation agreement made them repeal the Stamp Act. We have surely now, as well as then, a right not to buy their goods. . . . We then gained our point. We should now be much more powerful with the same weapon."

As the facts on which this specification of injuries was founded were too notorious to be denied, whatever attempts were made to palliate them, the opponents of the resolutions shifted their ground, and contended that for such injuries the resolutions proposed were too feeble and spiritless a remedy. We should seek redress first by negotiation; and, if that failed, war was the only honorable and adequate resort. "I would," said Mr. Tracy, "negotiate as long and as far as patience ought to go; and, if I found an obstinate denial of justice, I would then lay the *hand of force* upon the Western posts, and teach the world that the United States were no less prompt in commanding justice to be done them, than they had been patient and honorable in attempting to obtain it by fair and peaceable means. In this view, I should be led to say, Away with your milk-and-water resolutions: they are too trifling to effect objects of such importance." Mr. Dayton, indulging in the same vein, said, "The injuries we have received from Great Britain have been painted in very strong colors; and, when a remedy is proposed, it turns out to be only a set of regulations on paper. If we really labor under wrongs, something more effectual than

the measures proposed should be contemplated," after having first tried negotiation and found that unavailing.

To these appeals, put forward with the assumed air of a lofty national spirit, Mr. Madison replied with coolness and composure : —

"He saw no ground to hope for redress by negotiation. We must be satisfied that resource has failed. He could not see, admitting we are injured, that we are bound by honor or prudence to resent the injury by the last appeal to arms. It is best, he conceived, to try whether a more pacific weapon may not prove even more effectual. We can make use of none against Great Britain more effectual than *commercial weapons*. In that part [her commerce] she is most vulnerable. He thought this the time for the exertion of those means most clearly in our power."

The same views he was led to develop more fully on a subsequent occasion, when he said, —

"The friends of the resolutions considered them as having no tendency to war, but as the most likely means of obtaining our objects without war. They thought, and thought truly, that Great Britain was more vulnerable in her commerce than in her fleets and navies ; that she valued our necessities for her markets, and our markets for her superfluities, more than she feared our frigates or our militia ; and that she would, consequently, be more ready to make proper concessions under the influence of the former than of the latter motive. Great



Britain is a commercial nation. Her power, as well as her wealth, is derived from commerce. The American commerce is the most valuable branch she enjoys. . . . If any thing, therefore, could overcome her pride, her avidity, and her repugnance to this country, it was not the fear of our arms, which, though invincible in defence, are little formidable in a war of offence; but the fear of suffering in the most fruitful branch of her trade, and of seeing it distributed among her rivals.”<sup>1</sup>

The debate in opposition to the resolutions was continued with great earnestness by Mr. Hillhouse, Mr. Ames, and Mr. Murray. Mr. Ames, particularly, made a very elaborate and vehement speech, distinguished by the usual characteristics of his eloquence,—great rhetorical exaggeration, and much acrimony of spirit. He set off, with bold defiance, against the report of the secretary of State the dashing statements of Colonel Hamilton in the speech delivered by Mr. Smith; and, as a refutation or compensation of the wrongs and injustice sustained at the hands of Great Britain, drew a highly-wrought poetical picture of what he represented to be the general and unparalleled prosperity of the country. Towards the close of the debate, Mr. Madison again took the floor in defence of the resolutions against the various attacks which had been made upon them, and spoke for two successive days. It is impossible here to follow him in the wide range of his argument, or to do justice to

<sup>1</sup> See Political Observations.

the commanding ability with which he disposed of so great a mass and variety of topics. We can only indicate the general course of his argument, and notice a few of the more salient points of it.

He reviewed in detail the attempts which had been made to convict of inaccuracy the statements of the late secretary of State, with regard to the commercial relations of the country, as affected by the regulations of foreign governments ; justifying and sustaining, by the fullest evidence, the correctness of those statements, against the counter-representations of Colonel Hamilton and his echoes in the House. In dismissing this part of the subject, he said, —

“ He could not do justice to his own impressions, without declaring his entire confidence, that the report would be regarded, by all impartial and unprejudiced judges, as one of the many monuments which its author had left behind him, of the zeal, the talents, and the patriotism with which he had discharged the duties of his office ; and that he had carried with him into retirement a purity, both in his public and private name, which nothing that could be said, within or without the walls of Congress, could tarnish.”

Passing to a more general view of his subject, he noticed the flattering and brilliant aspect under which the condition of the public interests had been presented by Mr. Ames. Particular pains, he remarked, had been taken to exhibit a picture of our national prosperity, which might flatter our wishes

and forbid experiments. There were many features, he readily admitted, in the face of our affairs, which were proper themes of mutual congratulation, whether compared with the situation of other countries, or with our own under other circumstances. But these, he said, were not to be ascribed to any particular measures of *legislative* wisdom, as had been extravagantly asserted by some ; but “were so evidently the fruit of the fundamental change in the Constitution of Federal government itself, as to do honor to the *people* of America in adopting it. He mentioned two innovations, making part of the Constitution, which must alone have had a powerful effect in ameliorating the condition of this country ; to wit, the prohibition of paper money or other violations of contracts, and the abolition of incoherent and rival regulations of trade among the several States. But, notwithstanding the satisfactory state of our affairs under certain aspects, there were others which suggested very different reflections.”

He re-affirmed and vindicated the views which he had before presented, of the extremely unequal and injurious footing on which our commercial relations with Great Britain were placed by the illiberal policy of her government ; and superadded a detailed statement of the injuries and losses we suffered from her in other respects, under the several heads of the Indian war, fomented by her retention of the Western posts ; the Algerine depredations, due to her unfriendly disregard of our interests ; her direct spoliations on our neutral commerce ; and the losses



resulting to us from her disproportionate share in the carriage of our produce by British bottoms. These several losses and injuries, according to his estimate, amounted to the annual sum of more than three and a half millions of dollars,—then deemed, as in truth it was in that early age of the Republic, a very large sum, compared with the slender population and undeveloped resources of the country.

“From this view of things,” he said, “it was impossible to deny, that, however prosperous the United States might be in some respects, they were in others laboring under violations of their rights and interests, which demanded the serious attention of the legislature. Besides the unreciprocal footing of their commerce, and the indignities offered them, it was seen that they were burdened with an enormous extra expense, and involved in unjust losses; constituting an annual tax nearly equal to the whole amount of the taxes which by legislative enactment they imposed on themselves for all the various branches of the national service.”

He then proceeded to show, under various views, how his resolutions, if adopted, would by their operation tend to procure a remedy for this injurious state of things. He next answered, in succession, the numerous objections which had been brought against the resolutions; and concluded with the following condensed, practical application of his argument:—

“The first question is, whether any thing ought to be done. If this be decided in the affirmative,

as he presumed to be the sense of the committee, and if war was not in contemplation, as of course was taken for granted, the next question could only lie between negotiation and commercial regulations. Negotiation, it had been shown, was in no train or prospect that could justify reliance on it. Commercial regulations alone remained. They would be pacific in their operation. They were the means best suited to the temper of our constituents ; and he sincerely believed, if judiciously framed, they would be more likely to answer the just and reasonable purposes of the nation than any system that could be proposed."

The debate on the resolutions had now continued, and with daily increasing animation, for three weeks. At length, on the 3d day of February, 1794, the question was taken on the first resolution, involving the general principle of the proposed measures, and was carried by a vote of 51 to 46. When the discussion was renewed on the remaining resolutions, amid still continuing excitement, a motion was made by Mr. Lyman, of Massachusetts, to postpone the further consideration of the subject until the first Monday in March, in order to afford time to hear from England as to the probability of any change in the policy of that government towards the United States, the prospect of which was held out with sanguine anticipation by some, and pronounced utterly hopeless by others. The friends of the resolutions, rejecting altogether the idea of any favorable change in the dispositions of the British govern-

ment from negotiation, but willing to afford every opportunity for further information, acceded to the proposition of delay. The adverse party, thinking their chance of success the better in the present indecision and timidity of a portion of the House, earnestly opposed the postponement. The proposition of Mr. Lyman was carried by almost the same vote, literally, that had carried the first of the commercial resolutions; and the further consideration of the subject was postponed to the first Monday in March.

Mr. Madison, in a letter to Mr. Jefferson, of the 2d of March, 1794, — the first he had written to him since his return to Monticello, — gives the following account of this vote, together with some other circumstances, illustrative of the political temper of the times, which may not be without interest to the reader: —

“As you are so little supplied with the current information, it may be necessary to apprise you, that after the general discussion of the measure proposed by me had been closed, and the first general resolution agreed to by a majority of five or six, several of the Eastern members friendly to the object insisted on a postponement to the first Monday in March. It was necessary to gratify them; and the postponement was carried by a small majority against the efforts of the adverse party, who counted on the votes of the timid members, if forced before they could hear from their constituents. The interval has produced vast exertions by the British



party to mislead the people of the Eastern States. No means have been spared. The most artful and wicked calumnies have been propagated with all the zeal which malice and interest could inspire. The blackest of these calumnies, as you may imagine, have fallen to the lot of the mover of the resolutions. The last Boston papers contain a string of charges, framed for the purpose of making the Eastern people believe that he has been the counsellor and abettor of Genet in all his extravagances, and a corrupt tool of France ever since the embassy of Gérard."

These malignant assaults had no power to move Mr. Madison from his habitual equanimity; and, through the whole course of the discussion on his resolutions, often marked by criminations and recriminations of great harshness on the one side and the other,<sup>1</sup> he combined, with a free and manly

<sup>1</sup> A few passages at arms may be cited, to give some idea of the excitement which, from time to time, marked the course of this debate. Mr. Tracy characterized the resolutions by saying, that, contrary to their professed object, they would rivet new shackles on our trade. "The fetters are only changed from one side to the other, and *France stamped upon them instead of England.*" — *Annals of Congress* (1793-1795), pp. 299, 300. Mr. Ames, at a later period of the debate, said, "The resolutions say nothing; they are worse than nothing; they are based on partiality for one nation; they have *French* stamped on the face of them" (p.

521). This provoked a spirited reply from one of the Virginia members, Mr. Parker, who said, "He wished, for his part, that everybody and every thing could be plainly read by some such device. We should then know what and who is French, and who is *English.*"

Mr. Smith, of South Carolina, with his usual extravagance, had said that "Great Britain was the most friendly of any nation in Europe to the United States; and yet, if a stranger should come into that House, he would think the resolution under discussion was a *manifesto of war against Great Britain.*" Mr. Clark, of New Jersey, retorted, "If a stranger should come

expression of his opinions, an observance of parliamentary courtesy worthy of the dignity of his character, and of the gravity and high national importance of the questions at issue.

into the House, he would think Britain had an *agent* there" (p. 425).

Mr. Madison, in the conscious dignity of his character, stood aloof from this war of personalities. In a single instance, he noticed an imputation levelled against him, involving the consistency of his public conduct.

"In answer to this charge," he remarked, "that if, in any instance of his public life, he was free from the charge of inconsistency, it was on the subject of vindicating our national interests against the policy of Great Britain towards us. In all the public stations with which he had been honored since the peace, and on every occasion which had occurred, his conduct had been regulated by this principle. The

resolutions he had now proposed were founded on this principle; and if, in the first arguments supporting them, he had dwelt chiefly on commercial topics, it would be recollected that he had kept the door open for political ones, should the turn of the discussion require them. He had forbore to enlarge on the political sides of the question, because he thought it defensible on commercial grounds, and was willing to meet it on those grounds; because he did not wish to mingle, unnecessarily, irritating ideas in the discussion; and because he supposed every thing relating to the treaty of peace, the Indians, the Algerines, the spoliations, &c., would have all the effect they ought to have, without being particularly enforced." — *Idem*, p. 375.

## CHAPTER XLIX.

Continuation of First Session of Third Congress — Information received of New and yet Greater Outrages committed on American Commerce, under Additional Instructions of the British Government — Flame of Indignation produced by the Intelligence — Opponents of Mr. Madison's Resolutions called upon for their Plan of Resistance — Mr. Sedgwick, under prompting of Secretary of the Treasury, offers an *Ostensible* Measure of Defence, by proposing to raise a Provisional Army of Fifteen Thousand Men — The Measure soon laid upon the Table by its professed Patrons, and not called up till End of the Session — Mr. Madison, and Friends of "the Commercial Propositions" generally, feeling Other Measures to be necessary under the New Aggressions of the British Government, in *addition* to the Restrictive Regulations originally proposed by them, carry, by their Votes and Influence, Bills for laying an Embargo, and for prohibiting the Importation of British Goods and Manufactures into the United States — Part taken by Mr. Madison in the Preparation and Discussion of these Measures — President proposes and institutes a Special Mission to England, as a Last Experiment for Peace, by Appointment of Mr. Jay as Special Minister — History of the Measure — Views and Policy of the Republican Party — President agrees with the Republicans in their Indignant Sense of the Wrongs of Great Britain — Erroneous Statement of Judge Marshall, with regard to Lord Dorchester's Speech, commented on by the President, conclusively shown by *Record Evidence* obtained from Foreign Office in England — Immediately after Institution of Mr. Jay's Mission to England, President appoints Mr. Monroe Minister to France — Instructions to him — Abortive Measures proposed by Federal Party towards Close of Session of Congress — Review of them by Mr. Madison in an Able and Eloquent Pamphlet, subsequently published under Title of "Political Observations" — Precious Materials furnished by this Pamphlet for



correcting Errors of Federal Historical Writers — Hostilities and Depredations of Algerine Corsairs — Agency of the British Government in turning them loose on the Commerce of the United States, by means of a Truce, concluded under its Auspices, between Portugal and Algiers — Debates upon this Subject in the House of Representatives — Different Measures proposed for the Emergency — Views of Mr. Madison — He and the Body of his Friends vindicated from the Charge of Hostility to a Navy — By his Energetic Resistance and Powerful Logic he defeats Clause in a Bill which came down from the Senate, depriving France of the Privilege hitherto enjoyed by her of selling her Prizes in the Ports of the United States — Financial Questions, and the Course of the Two Parties in relation to them — Dignified and Piquant Reply of Mr. Madison to Assaults on Virginia, and Extravagant Laudations of their own State by Messrs. Ames and Dexter — Close of First Session of Third Congress.

WHEN the day to which the consideration of the remaining commercial resolutions was postponed arrived, information had been received, though at first somewhat vaguely, of new and yet more violent outrages on American commerce, committed by the British government. It was rumored that additional instructions had been issued to the British cruisers to stop and detain all neutral vessels laden with the produce of any of the French colonies, or carrying supplies of whatever kind to any of those colonies; and to bring in the same, with their cargoes, for adjudication by the British courts of admiralty. In this state of things, the further consideration of the resolutions was postponed a week longer, — that is, to the 10th of March, — to afford time for more definite and accurate information. In the interim, a copy of the additional instructions, bearing date the 6th of November, 1793, and

fully confirming the previous report of their tenor, appeared in the newspapers ; and was followed, in a few days, by astounding accounts of a large number of seizures and condemnations of American vessels under them in the West Indies.

Mr. Madison, writing to Mr. Jefferson on the 12th of March, says, “ The merchants, particularly of New England, have had a terrible *slam* in the West Indies. About a hundred vessels have been seized by the British for condemnation, on the pretext of enforcing the laws of the monarchy with regard to the colony trade.” The number of American vessels seized under these and like instructions amounted a few months later, according to a high English authority, to six hundred.<sup>1</sup> This fell swoop, directed without notice against the peaceful commerce of the United States, aroused, upon the first intelligence of it, an irrepressible feeling of indignation, and produced in the House of Representatives a burst of denunciation from a member who had opposed the resolutions of Mr. Madison, characterizing England as a *piratical* nation, — “ a leviathan which aims at swallowing all that floats on the ocean, — a monster whose only law is power, and who respects neither the rights of nations nor the property of individuals.”<sup>2</sup>

It was impossible, under these circumstances, for those who, in opposing the commercial resolutions, had made such lofty professions of their readiness

<sup>1</sup> British Annual Register for 1794, p. 255.

<sup>2</sup> Speech of General Samuel Smith, of Maryland, 27th March, 1794.

to vindicate the national rights and honor, not to do something which might wear the appearance, at least, of redeeming their pledge. Accordingly, on the 10th of March, the day to which the consideration of the commercial resolutions had been further postponed, Mr. Sedgwick rose, and gave notice of his intention to submit to the House on the following Wednesday, the 12th instant, certain resolutions, "the object of which would be the means of defence required by our present situation, and the funds which might be required to defray the expense." The friends of the commercial resolutions forbore to press the consideration of their proposition, until the new measure, of which notice had been given, was before the House.

The resolutions offered by Mr. Sedgwick, in pursuance of his notice, proposed the raising of a provisional army of fifteen thousand men, to be enlisted for two years, upon the condition that if, within that time, war should break out with any European power, they should be bound to serve for three years from the commencement of the war; but this force, though enlisted and fully organized with the necessary complement of officers, was not to be actually embodied, except in case of war, for more than twenty-four days in the year for occasional exercise and training. It was also proposed to empower the President, "*if in his judgment the safety and welfare of the United States shall require it*, to lay an embargo, *generally or particularly*, upon ships in the ports of the United States,



for a term not exceeding, at any one time, forty days." What particularly attracted attention in this proposition, especially in the explanation and development of it by the mover, was that, while the commercial resolutions had been opposed with great vehemence on the ground of their alleged irritating tendency in the defensive restrictions proposed by them on the trade of Great Britain with the United States, the measure now brought forward was presented and advocated as a direct menace aimed against her adjacent possessions on the continent, and the subsistence of her colonies in the West Indies.

"When possessed," said Mr. Sedgwick, "of the force contemplated, the adjacent rich dominions of the nation whose policy injures us can be easily struck; and the wound will certainly be severely felt. This impending blow will render that power cautious: they will reflect on the danger of rousing the resentment of a country so capable of retaliating with vigor. . . . Great Britain cannot supply her West Indies except from the United States. If this is in any degree true in peaceable times, how much more powerfully must it operate now that they have a considerable military force there to feed! In truth, without supplies from this country, they must inevitably abandon the project—with them a favorite one—of the conquest of the French West Indies. . . . Such firm language, backed by our means of withholding the supplies necessary to them in the prosecution of a darling object, and by an active

force ready to strike in a vulnerable quarter, must be heard, and have its due weight."

The sagacity of Mr. Madison did not fail to detect at once in this proposition, and the ostensible arguments by which it was supported, the hand and the language of its real author, the secretary of the treasury. Writing to Mr. Jefferson on the 14th of March, 1794, he says, —

"The papers of yesterday will give you a clue to the designs of the party which has used Sedgwick for its organ. His *immediate prompter*<sup>1</sup> will be seen both in his speech and his propositions. Whether more be seriously aimed at than to embarrass the other propositions, which have been long pending, is by some doubted. Perhaps this may be one of the objects; but you understand too well the game behind the curtain, not to perceive the old trick of turning every contingency into a resource for accumulating force in the government. It would seem, however, that less subtlety has prevailed in this than in some other instances. The ostensible reason for the provisional army is not only absurd, but remote from the present sensations of the public; and at the same time disarms the projectors of the cavil and calumny used with most success against the commercial propositions; to wit, that they tended to provoke war by an unnecessary alarm and irritation to Great Britain."

<sup>1</sup> The indication Mr. Madison here gives of the *paternity* of this project is now fully verified by the outline of it among the original

papers of Colonel Hamilton. — See Hamilton's Works, vol. iv. pp. 506–508.

Notwithstanding the ostentatious manner in which this military proposition was brought forward by the mover, it was quietly laid aside by its patrons, and not again called up until near the close of the session. The day after its introduction into the House, the commercial resolutions were again taken up, and discussed on that and the following day. The friends of the resolutions, while adhering to their justice and expediency, as entering properly into the general system of policy which ought to be pursued by the United States towards Great Britain, yet felt that the enormity of the recent outrages called for additional measures directed to the special exigency. In a letter of the 12th of March, 1794, to Mr. Jefferson, Mr. Madison says, —

“The commercial propositions are, in this state of things, not the precise remedy to be pressed as *first* in order; but they are, in every view and in any event, proper to make part of our standing laws, till the principle of reciprocity be established by mutual arrangements.” And again on the 26th of March, “The progress of the evils which they [the commercial propositions] were intended to remedy having called for more active medicine, it has not been deemed proper to force them on the attention of the House during more critical discussions.”

Hence, after the two days' discussion just mentioned, they were laid aside by common consent, in order to take up the more pressing subject of an embargo; which, we learn from Mr. Madison's cor-



respondence at the time, was debated for a week in Committee of the Whole. The measure was at first rejected, by a vote of 48 to 46; the Eastern members generally—the same party that opposed the commercial resolutions of Mr. Madison—voting against it; and the Southern members, friends of those resolutions, being in favor of it.<sup>1</sup> At length, a change of sentiment having taken place among the former, a resolution was passed by both Houses, on the 26th of March, laying by the direct and immediate action of Congress, and not by the delegation of a discretionary authority to the executive, “an embargo, for thirty days, on all ships and vessels in the ports of the United States bound to any foreign port or place.”

Other propositions of a like character, but yet more energetic, followed in close succession. The first was a proposition of Mr. Dayton, of New Jersey, to sequester the debts due to British subjects from citizens of the United States, and to hold the same as a fund for reimbursing the injuries to American commerce. This, after being warmly debated for two days, was laid aside, and not again taken up. On the 7th of April, 1794, a resolution was offered by Mr. Clark, of the same State, declaring that “until Great Britain shall cause restitution to be made for all losses and damages sustained by American citizens under her recent violations of neutral commerce and the law of nations, and until

<sup>1</sup> Letters of Mr. Madison to Mr. Jefferson of 24th and 26th of March, 1794.

the posts now held and detained by her within the limits of the United States be surrendered and given up," all commercial intercourse between the two countries, so far as respects the manufactures and productions of Great Britain and Ireland, shall be prohibited; the prohibition to take effect on a future day, to be thereafter named.

While this proposition was pending, with evident indications of its meeting the approbation of a large majority of the House, the President determined to make a new effort for the adjustment of the controversies between the two governments, by the institution of a special mission to Great Britain.<sup>1</sup> On

<sup>1</sup> Before this determination was formally announced, the President had received and transmitted to Congress, on the 4th day of April, despatches from the American Minister at London, communicating the fact that the British government, by a new instruction of the 8th of January, had modified its former instruction of the 6th November, 1793, so as to restrain its operation to neutral vessels engaged in the *direct* trade between the French West-India islands and a European port, or carrying to any destination the produce of those islands which is the *property of French subjects*. Even in this extent, the instructions were still in direct conflict with the rights of neutrals, as contended for by the government of the United States; and their deliberate promulgation, as standing orders to the British cruisers, was far from being a legitimate subject of satisfaction to the

friends of American rights and honor. With respect to the past, and what had already taken place under the instruction of the 6th of November, Mr. Pinckney, instead of being authorized to give positive assurances of redress, was merely enabled to say, that the British secretary of State, Lord Grenville, gave it as his personal opinion, that, though the American vessels which had been seized and condemned under that instruction were directed to be brought in for "legal adjudication," it did not follow that they were rightfully condemned by virtue of that instruction *alone*, independently of *other and pre-existing causes for condemnation*.—See Waite's State Papers, vol. II. pp. 5-9.

Neither the new instructions of the British government, nor the declarations of the British secretary for foreign affairs, when properly understood, afforded any addi

the 16th of April, he nominated Mr. Jay, chief-justice of the United States, for the proposed mission; and the nomination was, a few days afterwards, confirmed.

On the 18th of April, the resolution of Mr. Clark, having been reported by the Committee of the Whole, was taken up for consideration in the House. It was opposed, particularly on the ground, that, the President having determined to make another trial of negotiation, and having nominated an envoy extraordinary for the purpose, the passage of the resolution would be an interference with his constitutional functions; and that the resolution, in the

tional ground of hope or confidence to what may have previously existed, for entering upon another and special effort at negotiation with that power. They do not, therefore, appear to have had any material influence on the judgment of the President, when he determined to try the experiment of a special mission; for the very day before he nominated Mr. Jay to the Senate, and several days after the receipt of Mr. Pinckney's despatches above referred to, he says, in a letter to Richard Henry Lee of Virginia, "The conduct of the British Ministry has been such, . . . more especially with regard to the late orders of the king in council, as to leave very unfavorable impressions of their friendship, and little to expect from their justice, whatever may result from that of the interest of the nation."—*Sparks's Washington*, vol. x. pp. 401, 402.

These new proceedings and declarations of the British government, however, which were seen by the public through the ingenious glosses put upon them in speeches of members of Congress, had, undoubtedly, no small influence in begetting among the people, and especially the merchants, a more hopeful and zealous feeling in relation to the special mission. On the 31st of March, 1794, Mr. Madison makes the following sagacious reflection on the subject in a letter to Mr. Jefferson: "The later accounts from the West Indies, since the new instruction of the 8th of January, are rather favorable to the merchants, and alleviate their resentments. So that Great Britain seems to have derived from the very excess of her aggressions a title to commit them in a lesser degree with impunity."



form in which it stood, by prescribing the specific terms on which the proposed interdiction of commerce was to cease, was virtually an attempt by the legislative department to conclude a treaty with a foreign power. To the first objection it was answered, that the Constitution had expressly vested in Congress the power "to regulate commerce with foreign nations;" and that the exercise of the power proposed in the present instance would have, as it was intended to have, the effect of aiding, and not impeding, the President in the negotiation to be opened by him.

The second objection, founded on the form of the resolution, was obviated by an amendment proposed by Mr. Madison, reciting, in the course of a preamble, that, "Whereas the injuries suffered, and likely to be suffered, by the United States, from the violation of its neutral rights and commercial interests on the part of Great Britain, and also from a failure in the execution of the seventh article of the treaty of peace, make it expedient that their commercial intercourse with Great Britain should not remain as extensive as it now is;" and then concluding with a resolution, that, from the —— day of —— (afterwards fixed at the first day of November following), the said intercourse, so far as regards the importation of British merchandise, should be suspended. In that form, with very slight modifications, the resolution was carried in the House of Representatives by a vote of 58 to 38; and a bill reported in pursuance of it was finally passed in the House, on

the 25th of April, by a vote of 58 to 34. In the Senate it was defeated, on a tie-vote of the members, — thirteen for, and thirteen against it, — by the casting-vote of the Vice-President.

The course of events, in increasing the hostile aggressions of Great Britain on the commerce of the United States, had merged for a time the original resolutions of Mr. Madison in the stronger measure of Mr. Clark, of New Jersey; for which all the friends of Mr. Madison's resolutions voted, together with a considerable number of those who had at first opposed them. But after the prompt and peremptory defeat of the Non-intercourse Bill in the Senate, and the institution of the special mission to London, it became apparent that any further attempt at measures of commercial vindication by the House of Representatives, however strong the sentiment of that body was in favor of such measures, would be unavailing; and, in consequence, neither the resolutions of Mr. Madison, nor any other measure of the same type, were afterwards seriously pressed.<sup>1</sup>

Two topics of party crimination were very industriously employed at the time, and have been since propagated by party historians, against Mr. Madison and the majority of the House, for their support of the policy of commercial restrictions, as in their judgment the most efficient, as well as peaceable, means of obtaining redress for the injuries of Great

<sup>1</sup> See letter of Mr. Madison to Mr. Jefferson, 11th May, 1794. — Madison's Writings, vol. II. p. 15.

Britain. The first accusation was that they designed, and that the effect of their measures would be, to provoke a war with Great Britain, and to commit the country to the madness and revolutionary violence of France ; the second imputed to them a systematic, if not factious, opposition to the views and policy of the President. We have already given the most unanswerable refutation of the first charge, *in point of reason*, from the speeches of Mr. Madison in the debate on his resolutions ; and we feel it would be “wasteful and ridiculous excess” to attempt to add any thing to so conclusive a demonstration. How little reason there was, *in fact*, for the apprehension of a war with England from measures of commercial vindication on the part of the United States, is shown as clearly by the testimony of those on the spot, and in the best situation for knowing the policy and intentions of the British government.

The able and enlightened American Minister then in London, while deprecating war, recommended commercial regulations as a peaceable, and likely to be an efficient, means of redress.<sup>1</sup> Among the papers of Washington is the extract of a letter addressed to him, at this period, by an American gentleman in London, “whose judgment and opinion,” we are told, “he deemed worthy of regard.”

“God forbid,” says this correspondent of the President, “that I should say any thing that would

<sup>1</sup> Letter of Mr. Pinckney to Mr. Jefferson, secretary of State, 15th August, 1793. — Waite's *State Papers*, vol. 1. p. 402.



have the smallest tendency to involve my country in war; and therefore I have avoided in my letters hitherto a communication of the truth of which I am fully convinced. . . . This is the moment for the United States to hold that decided language towards this government, which the wrongs and injuries they have suffered would have dictated some time since, if circumstances had rendered it prudent for them to do so. Nothing will be refused that they have, in justice, a right to demand, if the *demand be made with firmness*, and *measures are seen to be taken to support that demand*. A war with the United States will not be hazarded. . . . The Ministry have been told from the United States, that they might venture to do almost any thing they pleased with respect to them; as there was a party there so decidedly in the British sentiment, that bearing and forbearing would be carried to any length: and this has been implicitly believed. *I speak not on slight grounds.*"<sup>1</sup>

These intimations derive the strongest confirmation from the contemporary avowals of a British publication of the highest authority for its candor, impartiality, and ample means of information. Soon after the conclusion of Jay's treaty, when the motives for a politic reserve had ceased, this organ and repository of the national sentiment and history, speaking of the deep stake which Great Brit-

<sup>1</sup> Sparks's Washington, vol. x. p. 396. The precise date of this letter is not given; but the connec-

tion in which it stands shows it to have been written about the beginning of the year 1794.

ain had in the preservation of peaceful and friendly relations with the United States, says, "The commerce with North America was a source of great benefit to this country: it employed nearly two hundred and fifty thousand tons of shipping, and took off an immense quantity of our manufactures. In case of a war, the navigation from Britain to the West Indies would suffer great and inevitable depredations from the numerous privateers with which the Americans would cover the West-India seas. Our islands, too, would lie exposed to their attacks; and, in conjunction with the French, they would certainly attempt their reduction. Happily, however, both for Great Britain and the United States, moderate counsels prevailed over the anger expressed by the public at the treatment they had experienced."<sup>1</sup>

The other charge brought against the friends of commercial vindication, that they had arrayed themselves in organized opposition to the wishes and policy of the President, was equally without foundation. We have heretofore had occasion to show,<sup>2</sup> that the President, from an early day, was in favor of discrimination in the commercial legislation of the United States against Great Britain, on account of her illiberal and unjust regulations affecting the trade of the two countries; and his Message of 5th December, 1793, at the opening of the present session of Congress, called the attention of the body

<sup>1</sup> British Annual Register for 1794, p. 256.

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<sup>2</sup> Ante, chap. xxxvii. pp. 27, 28.

to new and aggravated causes of complaint against her; while recognizing, in cordial terms, the liberal conduct and "friendly attachment which France had manifested generally to this country." No one was farther from being the apologist or palliator of British injustice. If any one should doubt his sentiments on this subject, let him read not only the letter to Richard Henry Lee of Virginia, to which we have already referred (p. 412), but his letters to Gouverneur Morris, then informal agent of the government in London, of the 21st June and 20th October, 1792; his letter to Governor Clinton of 31st March, 1794; and his letter to Mr. Jay of the 30th August, 1794.<sup>1</sup>

<sup>1</sup> See Sparks's Washington, vol. x. pp. 240, 308, 394, 395, and 433-435. In the letter to Governor Clinton above referred to, a speech of Lord Dorchester, Governor of Canada, to the Indians, delivered on the 10th February preceding, in which that functionary expressed the opinion, that Great Britain would be at war with the United States by the end of the year, and incited the Indians to be prepared, in that event, to draw a new line of territorial separation by the sword, is mentioned by the President as one among other evidences of the hostile intentions of the British government. "As there are those," he says, "who affect to believe that Great Britain has no hostile intentions towards this country, it is not surprising that there should be found among them characters who pronounce the speech

of Lord Dorchester to the Indians to be spurious. No doubt, however, remains in my mind of its authenticity."

And yet, strange to say, Chief-justice Marshall, in reciting the history of this period in his *Life of Washington* (vol. II. p. 320), affirms that "this document was not authentic, although it obtained general belief." Upon this naked assertion of the chief-justice, in opposition to the recorded admission of the British Minister, Hammond (see Waite's *State Papers*, vol. II. pp. 58-61), the same statement has been taken up and repeated by subsequent American historians. To put an end, once for all, to the propagation of this extraordinary error in our national history, we obtained through an esteemed and distinguished friend in England, from the high inter-



As little did he sympathize with the leading adversaries of the commercial propositions in their bitter hatred of France, and their exaggerated fears of the influence of what they called French principles on the internal peace and harmony of the United States. That he was the sincere friend of the French revolution, rejoiced in the wonderful achievements of its arms, and augured well of the effects of its final success on the general happiness

national courtesy and manly reverence for truth of the Foreign Office, a verified copy of the speech of Lord Dorchester, as it now exists in the archives of that office; showing its unquestionable authenticity, and its exact conformity, with the exception of one or two insignificant words, and one omitted sentence of no special importance, with the version published in the American and English newspapers at the time.

From the verified copy thus kindly communicated to us from the Foreign Office we annex two extracts, containing the *essence* of the speech, so far as it related to the United States:—

“Children, since my return, I find no appearance of a line remains; and from the manner in which the people of the United States push on and act and talk on this side, and from what I learn of their conduct towards the sea, I shall not be surprised if we are at war with them in the course of the present year; and, if so, a line must then be drawn by the warriors.”

The concluding sentence of this *paternal* address is as follows:—

“Children, what further can I say to you? You are witnesses that, on our part, we have acted in the most peaceable manner, and borne the language and conduct of the people of the United States with patience; but I believe our patience is almost exhausted.”

The learned gentleman who was the medium of our communication with the Foreign Office, wrote, under date of 24th June, 1866, “At length I have the pleasure of sending you a complete answer to your question, as far as the ‘record proof’ is concerned. The explanation of Judge Marshall’s statement must be looked for, if *anywhere*, on your side of the Atlantic.” The communication from the Foreign Office which he transmitted contains this precise and unequivocal statement: “There can be no doubt of the authenticity of the document alluded to, since Mr. Hammond’s No. 16, 1794, contains an inclosure from Lord Dorchester, in which he writes, ‘I inclose you a copy of my answer to a message from the Indians of the upper nations, which will sufficiently explain itself.’”

of mankind, as well as the interests and prosperity of the United States, his declarations, both public and private, bear abundant and unequivocal testimony.

In all these important respects, there was entire coincidence of feeling and opinion between the President and the Republican majority of the House of Representatives, and a wide divergence between him and the Federal leaders. If the President was in favor of a further effort of negotiation to obtain redress of the injuries proceeding from the British government, it was mainly to promote national unanimity in whatever ulterior measures should become necessary for a vindication of the national rights. Should a war with England be ultimately forced upon us, "the affections of the people of the United States," he said, "would be better secured towards the measure by a manifestation that every step had been taken to avoid it."<sup>1</sup> The Republican majority in the House were not opposed to negotiation, but in favor of negotiation supported by a practical appeal to the interests of the adverse party (without which, they firmly believed, there was no prospect of any real and adequate redress), instead of trusting solely to the influence of sentiments of justice or benevolence, a reliance on which had already proved so bitter a delusion.

Many of them, doubtless, preferred negotiation

<sup>1</sup> This was the language of the instructions shortly afterwards given to Mr. Monroe, which under-

went the careful revision of the President himself.

through the existing channel of the able and independent representative already accredited to the court of London, rather than a special and extraordinary mission, committed to the hands of a gentleman whose antecedents were not of the most favorable kind with regard to impartiality between the belligerent powers of Europe,<sup>1</sup> and whose actual official position, as chief-justice of the United States, was thought to be a bar, on constitutional principles, to his employment in a political capacity, while holding a judicial office. These were incidental points, on which a difference of opinion might well exist without implying any disapproval of the leading objects of the President's policy, or derogating from the profound respect and confidence felt for him as the pure, virtuous, and enlightened chief magistrate of the nation. It was well known what extraordinary and persevering exertions were made, from high quarters, to obtain the President's concurrence in the measure of a special mission, and the balance of conflicting considerations which finally led him to the selection of the Minister; and every allowance was made for his difficult and embarrassing situation by those to whom the facts were known.<sup>2</sup>

<sup>1</sup> How violent and unreasonable were the prejudices of Mr. Jay against France, and how strong his leanings to England, we have already had occasion to show in giving an account of the negotiations of the treaty of peace of 1782. — Vol. I. pp. 352-362.

<sup>2</sup> Revelations from behind the scenes, recently brought to light, show the extraordinary means that were resorted to in order to operate on the mind of the President. It appears that certain leading members of the Senate — Mr. Ellsworth, Mr. King, Mr. Cabot, and Mr.



No sooner was the special mission to England filled, than an important act of the President, which succeeded it, left no room to doubt his actual position of independence and impartiality in the political divisions of the country, as well as between the warring powers of Europe. About the middle of May, 1794, he nominated for the mission to France,

Strong — held formal conferences with each other, of which minutes were kept, and have been preserved; that the main object of these conferences was to determine on the course to be pursued in the relations with England; that the plan of a special mission was agreed upon by this conclave; that Mr. Ellsworth was deputed to bring it before the mind of the President, and at the same time to urge the importance of selecting Colonel Hamilton for the mission; and that these representations were afterwards earnestly supported by Mr. Robert Morris, senator of Pennsylvania, with whom the President had had long and intimate relations of friendship, and in whom he reposed especial confidence. — See disclosures in Hamilton's *Hist. Am. Rep.*, vol. v. pp. 532-535. Considering the relations of joint action and deliberation established by the Constitution between the President and Senate, in matters of foreign negotiation, nothing was more natural than that he should listen with respect to representations from that source on such questions.

We learn from another quarter how ardently the appointment of Colonel Hamilton was desired by the Federal party. "Should a

special Minister," said Mr. Ames, "be sent from this country, much will depend on his character and address. Who but Hamilton could perfectly satisfy our wishes?" (To Mr. Gore, 26th March, 1794.) The public opinion, however, with regard to the strong Anglican leanings of Colonel Hamilton, was, in the mind of the President, an insuperable barrier to his appointment. Mr. Jay being the person next preferred by a majority of the Senate, and Colonel Hamilton, after his own pretensions were disposed of, recommending him as then "the only man in whose qualifications for success in England there would be a thorough confidence," the President nominated him to the Senate.

Mr. Madison, in a letter of the 28th April, 1794, to Mr. Jefferson, says, "The appointment of Hamilton as envoy extraordinary was likely to produce such a sensation, that, to his great mortification, he was laid aside, and Jay named in his place. The appointment of the latter would have been difficult in the Senate, but for some adventitious circumstances. There were ten votes against him in one form of the opposition, and eight on the direct question."

become vacant by the recall of Mr. Gouverneur Morris, James Monroe, of Virginia, a Republican leader in the Senate, well known by his ardent zeal and sympathy for the cause of the French revolution, and who had opposed with particular earnestness in the Senate, both the appointment of Mr. Jay and the institution of a special mission to England. The selection of Mr. Monroe for this delicate and important trust sufficiently announced to the world the sentiments with which the President was animated. But in the instructions to the Minister, which were drawn up under his immediate supervision, and received his deliberate sanction, the "*real sentiments* of the executive towards the French nation" were unequivocally expressed.

The Minister was told that "the President has been an early and decided friend of the French revolution; he is immutable in his wishes for its accomplishment, and persuaded that success will attend it." The Minister was also instructed to say, in respect to Mr. Jay's mission to London, that "he is positively forbidden to weaken the engagements between this country and France;" and it was added, "You will be amply justified in repelling with firmness any imputation of the most distant intention to sacrifice our connection with France to any connection with England." Finally, he was told, "You go, sir, to France, to strengthen our friendship with that country; you will let it be seen, that, in case of war with any nation on earth, we shall consider France as our first and natural

ally. You may dwell upon the sense we entertain of past services, and for the more recent interposition in our behalf with the Dey of Algiers." These were the "real sentiments" of the President. They placed him in full harmony with the republican sentiment of the country; and drew a broad line of demarcation between his and the well-known anti-Gallican feelings of the Federal leaders, who opposed with so much vehemence every measure of legislation designed to vindicate the independence and commercial rights of the United States against the arrogant and sweeping encroachments of England.

The military measures brought forward by Mr. Sedgwick, the selected Federal leader on this occasion, met with little success. They were considered a mere masquerade played off on that side of the House, there being no real purpose or expectation of war with England entertained by them; but, at the same time, it threatened to be a very costly and dangerous masquerade to the nation, involving a large addition to both the patronage and expense of the government.<sup>1</sup> In the original proposition of

<sup>1</sup> Mr. Jefferson, in a letter of this period (3d April, 1794) to Mr. Madison, said, "As to the naval armament, the land armament, and the marine fortifications, which are in question with you, I have no doubt they will all be carried; not that the monarchs and papermen in Congress want war, but they want armies and debts." How little war was really contemplated

by the Federal party, while they were pushing their ostensible military measures in Congress, is shown by the language held by them in their private correspondence. Oliver Wolcott of the treasury department, more perhaps in the unreserved confidence of Colonel Hamilton, the chief of the party, than any other man, wrote to his father on the 2d day of March,



Mr. Sedgwick, the contemplated additional military force was to be fifteen thousand men. In the bill afterwards reported by him, it was increased to twenty-five thousand. When the bill came to be acted on in the House, — on the 19th of May, — successive motions were made for an additional force of twenty-five thousand, fifteen thousand, and ten thousand men. They all failed; and the bill was finally rejected by a vote of fifty to thirty.

The effort was afterwards renewed in the Senate; and a bill, passed by that body for an addition of ten thousand men to the military establishment, was again rejected in the House, on the 30th day of May, by a vote of fifty to thirty-two. In this bill, it was proposed to give to the President a discretionary authority to raise the additional force, “if circumstances shall, in his judgment, render it necessary.” The attempt was thus openly made to put the weight of the President’s great and deserved popularity in the scale against the Constitution, which vests exclusively in Congress the power to “raise armies.” While the Republican party opposed, with manly firmness, these extraordinary and unwarrantable measures, which there was nothing in the character of the crisis to excuse, they con-

1794, “There is but one way for us to avoid troubles of the most serious nature; and that is, to *determine that we will not go to war.*” And again to another New-England friend on the 3d day of May, “During this interesting period, the

duty of an American citizen, above all, is to come to an *absolute* determination, that we will *on no account* become a party in the war.” — See these letters in *Memoirs, &c.*, by Gibbs, vol. 1. pp. 129, 136.

curred in every proper provision for the security of the country in the contingency, however improbable they deemed it, of a war with England. We feel it to be due to the truth of history, as well as to the claims of equal justice, to give here a brief extract or two from a most able and eloquent vindication of himself and his political friends, made by Mr. Madison a year later, against accusations which were industriously propagated by their Federal opponents at the time, and have since been countenanced by graver authority.

“The friends of the commercial propositions,” says this noble and manly exposition, “appear never to have admitted that Great Britain could seriously mean to force a war with the United States, unless in the event of prostrating the French republic; and they did not believe that such an event was to be apprehended. Confiding in this opinion, to which time has given its full sanction, they could not accede to those extraordinary measures, which nothing short of the most obvious and imperious necessity could plead for. They were as ready as any to fortify our harbors, and to fill our magazines and arsenals: these were safe and requisite provisions for our permanent defence. They were ready and anxious for arming and preparing our militia: that was the true republican bulwark of our security. They joined also in the addition of a regiment of artillery to the military establishment, in order to complete the defensive arrangements on our eastern frontier. These facts are on record, and are the

proper answer to those shameless calumnies which have asserted that the friends of the commercial resolutions were enemies to every proposition for the national security."

Adverting, then, to the other military measures which were proposed, and showing their unconstitutional character in seeking to confer on the executive powers which are expressly vested by the Constitution in Congress, the vindication proceeds:—

"An attempt to answer these observations by appealing to the virtues of the present chief magistrate, and to the confidence justly placed in them, will be little calculated either for his genuine patriotism, or the sound judgment of the American people. The people of the United States would not merit the praise universally allowed to their intelligence, if they did not distinguish between the respect due to the man and the functions belonging to the office. In expressing the former, there is no limit or guide but the feelings of their grateful hearts. In deciding the latter, they will consult the Constitution; they will consider human nature; and, looking beyond the character of the existing chief magistrate, fix their eyes on the precedent which must descend to his successors. Will it be more than truth to say, that this great and venerable name is too often assumed for what cannot recommend itself, and for what there is neither proof nor probability that its sanction can be claimed? . . . His truest friends will be the last to



sport with his influence, — above all for electioneering purposes ; and it is but a fair suspicion, that they who draw most largely on that fund are hastening fastest to bankruptcy in their own.”

We would gladly give other extracts, if our space permitted, from this masterly production, which recalls by its dignity, its eloquence, and ability, a similar vindication by Somers, in 1694, of the policy of himself and his friends, against the opposing arguments of his adversaries ;<sup>1</sup> and of which it has been well said, as may with equal truth be said of Mr. Madison’s production, “The writer looked on the events which were passing before him with the eye of a philosophical historian, as he looked on the history of past ages with the eye of a practical statesman.” No one, who desires to be adequately informed of both sides of the stirring questions which divided political parties at this epoch of American history, can, in justice to himself, fail to read this powerful exposition of Mr. Madison, in connection with the views which have been so zealously and elaborately put forth on the opposite side. It seems, indeed, by some mysterious foresight or guidance, to have been prepared as an answer in anticipation — a most conclusive and satisfactory one, it seems to us — to a portion of the work of Chief-justice Marshall, published many years later, in which the learned judge exerts to the uttermost his powers of plausible statement,

<sup>1</sup> The publication of Lord Somers, like that of Mr. Madison, was in the form of an anonymous pamphlet.

and indulges, with far less reserve than usual, the zeal of his political feelings.<sup>1</sup>

We turn now to a subject which occupied much of the deliberations of Congress at its present session, and which was supposed also to have its origin in the unfriendly policy of Great Britain towards America. The Dey of Algiers had suddenly commenced a piratical warfare on the commerce and citizens of the United States. Portugal, with whom the Dey was at war, but who sustained the most friendly and mutually beneficial relations with the United States, had hitherto, at comparatively small expense, owing to her geographical position, maintained a fleet at the mouth of the Mediterranean, which effectually imprisoned the Algerine corsairs within the limits of that sea. All at once, in the autumn of 1793, a truce for twelve months was concluded by the British consul at Algiers between the Regency, so called, and Portugal; and the observance of the truce was guaranteed by the British government.

This took the commercial world by surprise, and Portugal herself as much as any other part of it. The American resident at Lisbon was assured by the Portuguese Minister for foreign affairs, that, although a desire had been expressed, some time

<sup>1</sup> The portion of Judge Marshall's Works here referred to is the ninth chapter of the second volume of the Life of Washington, pp. 289-330, in which he reviews and comments upon the proceedings of the first session of the

Third Congress. Mr. Madison's pamphlet was published, under the title of "Political Observations," in April, 1795, and is comprised in the recent collection of his writings printed by order of Congress, vol. iv. pp. 485-505.

before, to the British and Spanish governments for the aid of their friendly offices to induce the Dey of Algiers to conclude a *peace* — a firm and lasting peace — with Portugal, the truce had been concluded without any authority from her, or even consulting her; and that no such step would ever have been taken by the Portuguese government, without giving timely notice to all their friends, that they might avoid the dangers to which they would be exposed by the withdrawal of the fleet at the mouth of the Mediterranean. The great body of the nation, the most influential classes especially, manifested the greatest disgust at the transaction, and regarded it as a species of treachery to their friends and a stain on the national character.<sup>1</sup>

The immediate, as well as obvious and inevitable, consequence of this truce was that, the Portuguese fleet which blockaded the mouth of the Mediterranean being withdrawn, the Algerine corsairs darted forth upon the Atlantic, and made prey of a large number of American vessels and their crews, consigning the latter to the same remorseless captivity which others of their countrymen had been undergoing for years. When this subject was shortly afterwards brought to the notice of the British government, the Minister for foreign affairs, Lord Grenville, without disavowing the agency of the British government in bringing about the truce,

<sup>1</sup> See official communication of Lisbon, in Waite's State Papers, Mr. Church, consul and resident at vol. x. pp. 278-290.



but on the contrary distinctly admitting that it had been concluded under its instructions, declared, with an air of great innocence, that "it had not the least intention or thought of injuring the United States thereby."

It is impossible to give credit to the British government for the sincerity of this declaration, without imputing to it an incapacity to comprehend the simplest elements of cause and effect. No one could have failed to foresee the inevitable consequence to American commerce of what was done ; and, the consequence being foreseen, it must, upon every principle of rational interpretation, be presumed to have been intended. It was, indeed, but acting out in the detail, wherever its influence could be brought to bear, and without regard to the principles of national morality or public faith, the system it had deliberately adopted of cutting off all neutral commerce, and especially the commerce of the United States, with France.<sup>1</sup>

<sup>1</sup> Judge Marshall, in his history of this period, makes a studious attempt to exculpate the British government from all improper motives in the negotiation of this truce. — *Life of Washington*, vol. II. p. 296. It gives us pleasure to set off against the apology of the chief-justice, the manly and candid language of an historical writer of the same political school, who has better succeeded in surmounting the impressions of contemporary party controversies.

"The British Minister, Gren-

ville," says Mr. Pitkin in his *Political and Civil History of the United States*, "disavowed any intention of injuring the United States ; declaring that, being desired by their friend and ally to procure a peace with Algiers, the British government had instructed their agent to effect this object, and thereby enable the Portuguese fleet to co-operate with them against France ; and that, finding a permanent peace unattainable, he had concluded a truce for a short period. *The British Ministry, however, must have fore-*

When these occurrences were communicated by the President to Congress, the subject was referred, in the House of Representatives, to a Committee of the Whole on the state of the Union, to consider what measures would be proper and expedient to give protection to American commerce against the depredations of the Algerine corsairs. Two resolutions were reported by the Committee of the Whole,—the first, to appropriate a sum of money, according to what had become the general practice of the civilized states of Europe, to buy a peace with the freebooters of the Mediterranean; the second, to equip a naval force adequate to the protection of the commerce of the United States against their depredations. Under the second resolution, a special committee was appointed to report to the House what naval force would be necessary for the purpose indicated, together with an estimate

*seen, that this measure, in its immediate consequences, would be fatal to American commerce in the Atlantic, and that hundreds of American seamen must be necessarily consigned to slavery. Nor is it possible to believe that it should not have occurred to them, that an Algerine fleet would also co-operate in their favorite plan against France. Whatever were the real views of Portugal, she was too dependent on Great Britain to refuse a ratification of the treaty.”*—Pitkin’s Hist. U.S., vol. II. pp. 402, 403.

The language of Washington, in his letter to Richard Henry Lee, before referred to, shows that he

was never the dupe of Lord Grenville’s shallow diplomatic disavowal. “The British Ministry,” he says, “as you will have perceived by Mr. Pinckney’s letter to the secretary of State, which is just published, disclaim any hostile intention towards this country in the agency they had in bringing about the truce between Portugal and Algiers. Yet the *tenor of their conduct in this business* has been such, added to other measures, &c., &c., as to leave very unfavorable impressions of their friendship, and little to expect from their justice.”—Sparks’s Washington, vol. x. pp. 401, 402.

of the expense, and of the ways and means of defraying it. The committee made their report on the 20th January, 1794, recommending the building and equipment of four frigates of forty-four guns each, and of two of twenty guns each; and estimating the aggregate expense at six hundred thousand dollars.

The report of the special committee was taken up for consideration on the 6th of February following, when Mr. Madison inquired whether there was in the public stores a sufficient quantity of cedar and live oak for building the proposed six vessels; and, being answered that there was not, he said, "It was evident this fleet could not be got ready for effective service in the course of the present year;" and that the first resolution reported by the Committee of the Whole, proposing the application of a sum of money to buy a peace with the piratical power, afforded a much better prospect of an early remedy, and ought to be first considered. He proceeded to remark, —

"If the Algerines acted from their own impulse in this matter, they were known to be in the habit of selling a peace; and, if they are willing to do so, it might be purchased for less money than the armament would cost." On the other hand, if they do not act from their own impulse, but upon the instigation of Great Britain, the proposed armament would be unavailing to force them to a peace. The danger of a British war in that case, from the risk of a collision on the ocean, would be infinitely



greater than that which had been so much insisted on as involved in the commercial resolutions. He doubted, therefore, the expediency and propriety of the proposed armament; as the expense would be very great, — much greater, it was to be apprehended, than the estimate of the special committee, — and there was but little prospect of reaping any benefit from it.<sup>1</sup>

These were the distinct grounds on which Mr. Madison, and a majority of his political friends, opposed the proposition of a naval armament as an expedient and proper means for terminating existing hostilities with the regency of Algiers. After a debate of several days, the proposition was carried, in Committee of the Whole and in the House, by a majority of two votes only; but the bill, reported in pursuance of it, was finally carried by a majority of eleven votes.

To do justice to the different systems of action proposed and advocated on this occasion, it is necessary to go back to and realize the state of things then existing. The United States were wholly without a naval force: they had not a vessel of war in commission or on the stocks. No sufficient force could be created *ab ovo*, and gotten ready in time for the emergency. The financial resources of the United States were then exceedingly limited, and already heavily burthened with the debts of the Revolution, the expenses of a

<sup>1</sup> See Mr. Madison's speech in p. 433; also pp. 437, 438, 441, 449—  
Annals of Congress (1793–1795), 451.

flagrant and bloody Indian war, and preparations for the contingency of a possible European war apprehended by many. In this state of things, a vigilant economy in the public expenditure was demanded. No question of national honor was involved in a settlement with barbarians,—a sort of licensed sea-robbers, from whom the oldest and haughtiest powers—Great Britain, France, Spain, and the rest—were in the habit of purchasing peace and immunity by the payment of tribute and ransom money. This expedient, indeed, was the only one that could be applied with effect to the most interesting and urgent object of the American government,—the release of its citizens already in captivity, and suffering the most painful and cruel thralldom.

The subsequent course of events fully justified and established the grounds of Mr. Madison's dissent from the proposition, as a provision for the particular exigency. Instead of the frigates being at their destined station, as it was asserted they would be, in July or August of the current year, the keel of only one of them was laid even in December of that year, the timber for the rest being still standing in the forest. Portugal, as Mr. Madison foretold, permitted the truce to expire by its own limitation, and afterwards renewed the blockade of the Mediterranean against the predatory excursions of the pirates; and it turned out also, as he predicted, that the tribute and ransom money appropriated by Congress was alone the agent

which put an end to piratical hostilities, and restored the captive exiles to their freedom and their country.<sup>1</sup>

The question upon the adoption of this measure has been strangely represented as involving the general expediency of a navy ; and those who voted against it have been held up in the mass as the enemies of a naval establishment for the United States under all circumstances.<sup>2</sup> This interpretation is contradicted by the whole history of the proceeding, as well as by the limitations and recitals incorporated with the act itself. Whatever vague opinions may have been expressed by one or two opponents of the measure, with regard to the general expediency of a navy, there can be no grosser injustice than to represent Mr. Madison, and the body of those who acted with him, as the enemies of a properly regulated naval establishment, commenced and developed as the resources of the country should permit, growing with its growth, and strengthening with its strength.

In the very first debate in the Congress of the United States under the Constitution, he pronounced these pregnant words of a provident and far-seeing statesmanship : “ I consider the acquisition of maritime strength essential to this country. If ever we are so unfortunate as to be engaged in war, what but this can defend our towns and sea-

<sup>1</sup> See Political Observations, pp. 22, 23 ; and President's Messages to Congress, of 28th February and 8th December, 1795.

<sup>2</sup> Marshall's Life of Washington, vol. II. pp. 314-318 ; and Hamilton's Hist. Am. Rep., vol. V. pp. 485-488.



coast? . . . We have maritime dangers to guard against; and we can be secured against them no other way than by having a navy and seamen of our own.”<sup>1</sup> And in the Congress which succeeded the present, when peace with Algiers had been concluded, and the question of finishing the frigates that had been commenced was presented as one of general policy, we shall see him and the bulk of his political friends ranging themselves frankly and firmly on the side of laying the foundation of a permanent naval establishment.<sup>2</sup>

There was yet another proceeding of this important session of Congress that has furnished to party historians<sup>3</sup> a topic of accusation and reproach against Mr. Madison and his political friends, which, we cannot but think, when correctly understood, must appear in a very different light to the sober judgment of an impartial posterity. A bill was introduced into the Senate, entitled “An act to provide for the punishment of certain crimes against the United States,” which, while very properly prohibiting the acceptance by citizens of the United States of military commissions in the service of either of the belligerent powers of Europe; their engagement as soldiers or mariners on either side in the existing war; the fitting out and arming of privateers and vessels of war, in the waters of the United States, to cruise against the property or

<sup>1</sup> Ante, chap. xxxvii. pp. 16, 17.

<sup>2</sup> See *Annals of Congress* (1795, 1796), pp. 877, 891.

<sup>3</sup> *Marshall's Life of Washington*, vol. ii. pp. 326, 327; and *Hamilton's Hist. Am. Rep.*, vol. v. pp. 599-603.

subjects of either of the belligerents ; and the preparing and setting on foot any military expedition or enterprise from the United States against the dominions of any power with which they are at peace, — contained also a provision prohibiting either party in the war from selling in the United States prizes made from the other, and directing all such prizes to be promptly carried out of the country by those who shall have brought them in.

This provision, though general and equal in its terms, was, in its practical operation, directed wholly against France. By the 17th article of the treaty of commerce of 1778, she had secured the right of bringing her prizes into the ports of the United States ; and by the same article it was expressly stipulated, that this privilege should not be extended to any power with whom she might be at war. This exclusive privilege being the result of a formal treaty stipulation entered into previous to the existing European war, and without reference to it, the rules of international law pronounced that it could be properly permitted to France and withheld from Great Britain, in virtue of the prior conventional obligation, without any departure from the principles of a just neutrality. Such was the decision of the American government, duly notified to both parties ; and although the stipulation referred to did not expressly or necessarily carry with it to France the right of *selling* her prizes in the United States, yet as, in the judgment of the President, after full official consultation, there was no

law, either of nations or the country, which forbade it, he decided to permit the sale of French prizes, when they were brought in under the sanction of the treaty.<sup>1</sup>

This was the footing on which the subject had stood, with the knowledge and conformity of all parties, ever since Great Britain became a party to the war in February, 1793. France had been in the undisputed enjoyment, during the whole of that time, of the privilege of selling as well as bringing in her prizes, by the formal decision of the American executive just mentioned. This privilege it was now proposed to revoke by an act of the legislature, and to offer it up as a propitiatory sacrifice to an imperious after-thought of the British government. On a motion to strike out the provision, the Senate was equally divided; twelve being for, and twelve against it. It was retained only by the casting vote of the Vice-President, and by the same casting vote the bill was passed and sent to the House.

When it was taken up, during the last day of the session, in the latter body, a motion was made there to strike out the same provision. In support of the motion, Mr. Madison made the following lucid and cogent statements:—

“A neutral nation may treat belligerents unequally, where it is in consequence of a stipulation prior to the war, and having no particular reference to it. It is laid down expressly by all of the best

<sup>1</sup> See Hamilton's Works, vol. vi. p. 167.



writers, that to furnish a military force to one of the parties in pursuance of such a stipulation, without a like aid to the other, is no breach of neutrality; and it amounted to the same thing, whether the equilibrium was destroyed by putting an advantage in one scale, or taking a privilege out of the other. The executive had expounded the law of nations and our treaties in this sense, by leaving the sale of French prizes free, and forbidding the sale of British prizes.

“For the legislature now to decide that we are bound by the laws of neutrality to forbid the sale of French prizes, would be to make themselves the exclusive expositors of the law of nations; to condemn the exposition of the executive; to arm Great Britain with a charge against the United States of having violated their neutrality; and, what ought to be particularly avoided, to arm her with claims of indemnification for injuries done her by the sale of prizes. Such a proceeding would be the more impolitic and extraordinary, as it could not fail to give extreme disgust to the French republic, by withdrawing a privilege which it had been determined could be rightfully allowed; and the British Minister himself, Lord Grenville, had admitted in his conversation with Mr. Pinckney, that Great Britain had reason to be satisfied, on the whole, with the conduct of the United States as a neutral nation.”

These observations were too conclusive, and addressed themselves too directly to the justice, the common sense, and the manly dignity of the repre-

sentatives of the nation, to be resisted. The section was stricken out by a vote of forty-eight to thirty-eight. Thus amended, the bill was returned to the Senate, where the amendment was concurred in; and its other provisions, to which no objection of principle appears to have been seriously urged, became the law of the land by general assent.

The closing scenes of this eventful session of Congress were occupied mainly with questions of finance. A committee of fifteen members had been appointed to inquire whether any, and what further, revenues are necessary for the support of public credit; and, if necessary, to report the ways and means of raising such additional revenue. The chairman of this committee was Mr. Smith of South Carolina, a zealous friend and supporter of the secretary of the treasury; and among its members were Mr. Ames, Mr. Tracy, Mr. Boudinot, Mr. Fitzsimmons, Mr. Madison, and Mr. Baldwin of Georgia. We are informed by the contemporary correspondence of Mr. Madison, that "this committee was unfortunately composed of a majority infected by the fiscal errors which threaten so ignominious and vexatious a system to our country;"<sup>1</sup> and again, three or four weeks later, when the committee had made their report, he says, "The report was the work of a sub-committee in understanding with the fiscal department, and is filled with a variety of items, copied, as usual, from the British revenue laws."<sup>2</sup>

<sup>1</sup> Letter to Mr. Jefferson, 14th April, 1794.

<sup>2</sup> Letter to same, 11th May, 1794.

The alleged danger of a war with England, and the assumption that there would be, in any event, a diminution of British imports during the current year, owing to the disturbed relations between the two countries, and a consequent reduction of revenue from that source, were made the pretexts for a long list of new taxes recommended by the secretary of the treasury and the committee. Among these were a tax on carriages, stamp duties on the ordinary transactions of life in an almost endless multiplication of forms, excises on snuff and other manufactures of tobacco, and on loaf and lump sugars refined in the United States. So large an addition to the fiscal burdens of the nation was believed by the Republican party to be wholly unnecessary, as they neither saw any serious prospect of a war with England, nor did they anticipate any falling-off of the usual revenue from her trade with this country. On both of these points their views were fully justified by the event.<sup>1</sup>

But, over and above these considerations, they felt a strong repugnance to the large strides proposed to be taken in the extension of the odious system of excise, which, however sanctioned by the letter of the Constitution, was so little in harmony with its free spirit, that they believed a practical resort to it could be justified only by a much clearer and stronger case of necessity than was now presented. With regard to the carriage-tax, besides other objections to it, the mode proposed of levying

<sup>1</sup> See statement in *Political Observations*, p. 23.



it as an indirect instead of a direct tax, was believed to be in conflict with that provision of the Constitution which prescribes the apportionment of taxes of the latter description among the several States, according to their federal numbers; and both it and the tax on manufactured tobacco were of gross and undeniable inequality, as bearing almost exclusively on the Southern and Middle States.

It was stated, in the course of the debate, that there was not a single vehicle in the State of Vermont, and but two in the whole State of Connecticut, which would be subject to the carriage-tax;<sup>1</sup> and a distinguished member from Massachusetts, in boasting the republican simplicity of his countrymen, declared, somewhat tauntingly, that "the Massachusetts members do not draw income enough from their funded stock to buy the oats for the Southern members' coach-horses."<sup>2</sup> Another, in the same vein, declared that "Massachusetts is a land of equality beyond any on earth. Scarce a man among them is rich enough to keep a coach, and scarce one so poor as not to keep a horse."<sup>3</sup> While the Republican party in the House of Representatives voted against these and similar unequal taxes among the new ones proposed, they gave their support to others of a less objectionable character, although they did not believe them really necessary for the support of public credit; but they

<sup>1</sup> See *Annals of Congress* (1793-1795), pp. 648, 653.

617; and his *Life and Correspondence*, vol. i. p. 142.

<sup>2</sup> See Mr. Ames's speech, *Annals of Congress* (1793-1795), p.

<sup>3</sup> Mr. Dexter, *Annals of Congress* (1793-1795), p. 628.

were willing, and indeed anxious, to provide every reasonable "precaution against contingencies."<sup>1</sup>

Nothing impresses one more painfully, in a review of this portion of our annals, than the narrow, sectional spirit manifested, not merely in the unequal and partial imposition of the public burdens, but in the frequent and offensive declaration of hostile prejudices against the Southern portion of the Union, indulged by Eastern members, especially those of Massachusetts, while lavishing self-complacent eulogies on their own section. To remarks of this character, directed against Virginia, Mr. Madison, contrary to his wont, was moved to make a brief reply, distinguished by a dignity and elevated decorum which commanded the respect of all, and gave a keener edge to the retributive allusions it conveyed.

"He felt," he said, "an aversion to all comparisons. But, if they must be made, it was proper to draw them with the strictest regard to truth. He agreed with the gentlemen from Massachusetts, that the citizens of that State were good republicans; but so were the citizens of other States. Laws were fast equalizing the manners of Americans all over the continent, and nowhere more rapidly than in Virginia. The people there were not less truly republican than others. There had not been a single instance of *insurrection in that State since the Declaration of Independence, nor any resistance to the laws*. Excise, indeed, had been very

<sup>1</sup> Political Observations, p. 23.

unpopular in the Southern States compared with what it was in the Eastern. But for this there was a very good reason. The tax was not only one to which they had not been accustomed; but it fell much more heavily upon the Southern than upon the Eastern States, where it was likewise familiar. The people of Virginia had never been discontented, even when paying heavy taxes, at the *amount* of the taxes themselves. Their dissatisfaction arose from the knowledge, that but a small part of the taxes *ever went into the public treasury.*"

With this noble vindication of his State, and silencing rebuke to the illiberal spirit of her assailants, Mr. Madison passed to the general discussion of the subject before the House. When these questions of revenue and finance were at last disposed of, an adjournment on the 9th day of June, 1794, put an end to the memorable first session of the third Congress of the United States.



## CHAPTER L.

Resistance to Execution of Excise Law in Western Pennsylvania — Views of the President — Opposite Conduct and Policy pursued by the Secretary of the Treasury — The Effect of his Measures to foment Insurrection — Proceedings of Insurgents — President reluctantly issues his Proclamation, calling forth the Militia — Visits Headquarters of the Militia, and inculcates Spirit of Subordination to the Civil Authority — Governor Lee, of Virginia, placed in Command — Secretary of the Treasury, upon his Earnest Application, accompanies the Expedition — Vindictive Spirit manifested by him against Messrs. Gallatin, Findley, and Smilie — Arbitrary Proceedings of Militia Officers encouraged by him — No Body of Men under Arms anywhere found — Militia return to their Homes and are disbanded — Secretary of Treasury urges making Examples, by Capital Punishment, of some of the Ignorant and Deluded People seized under his Instigation — President grants a General Pardon — During these Transactions, Mr. Madison, in Recess of Congress, at his Home in Virginia — His Marriage in September, 1794 — Rare Personal and Social Qualities of Mrs. Madison — Congress re-assembles in November — Speech of the President — Manly and Patriotic Address, in Answer to the Speech, drawn by Mr. Madison — Denunciation of “Democratic Societies” by Congress urged, with Great Vehemence, by Federal Leaders — Opposed, on Constitutional Principles, by Mr. Madison, and defeated — A Standing Army in Contemplation of the Federalists, as an Instrument for enforcing the Laws — History of the Project in Contemporary Letters of Mr. Madison — Law extending Period of Probationary Residence for Naturalization of Foreigners passed under his Auspices — His Parliamentary Discussions marked (especially during the Present Session) by a Pregnant and Condensed Brevity — Resemblance of his Manner to that of Somers — His

Candor and Fairness extort Acknowledgment and Applause of his Opponents—Interesting Private Correspondence and Interview between him and Mr. Dexter of Massachusetts.

CONGRESS had hardly adjourned, when the public mind, remitted to a momentary calm from the contagious excitement of parliamentary controversies, was destined to be yet more seriously agitated by rumors of overt resistance to the laws, and the din of military preparations, on the part of the government, to suppress popular discontents, which had broken out into acts of riot and disorder. Among the fiscal measures proposed by the secretary of the treasury, in his celebrated report on public credit, was an excise on domestic distilled spirits, — a tax odious, not only by its traditions in the country from which it was derived, but by its rude interference with the habits, wants, and convenience of a large portion of the American people. When submitted to Congress at its second session after the adoption of the Constitution, it was rejected by a very decisive vote. The secretary, nevertheless, still urged it upon Congress; and at the following session, in consequence of this repeated and earnest pressure, it was granted, — evidently with great reluctance, and with confident vaticinations, from quarters not unfriendly to the government, of its unhappy effects upon the public mind in many parts of the Union.

A member,<sup>1</sup> known to be a personal and political friend of the secretary, declared “that such was the present state of the public mind in various parts

<sup>1</sup> Mr. Steele, of North Carolina.

of the Union, that he should dread taking any measures which might serve to increase the fermentation which the people were in. An excise he considered of this nature. It would, in its operation, produce the worst consequences. A more exceptionable mode of taxation, he conceived, could not be devised. A direct or poll tax would not be so odious; and though for his own part he would prefer an excise to either of the former taxes, yet such was the aversion of the people to it, that he should choose almost any other alternative."

Within a few months after the passage of the law, the public dissatisfaction with it was demonstrated in various forms; and it soon became apparent, that it would be exceedingly difficult to carry it into execution, unless very material modifications of it were made. The President, in his Message to Congress at its meeting in October, 1791, was forced to advert to these indications of public discontent; and, in doing so, laid down, in the following noble language, the golden rule of a wise, paternal administration in a republican government: —

"If there are any circumstances in the law, which, consistently with its main design, may be so varied as to remove well-intentioned objections that may happen to exist, it will consist with a wise moderation to make the proper variations. It is desirable on all occasions to unite, with a steady and firm adherence to constitutional and necessary



acts of government, the fullest evidence of a disposition, as far as may be practicable, to consult the wishes of every part of the community, and to *lay the foundation of the public administration in the affections of the people.*"<sup>1</sup>

This sage advice did not accord with the principles or temper of the secretary of the treasury. In answer to the numerous petitions and memorials addressed to Congress against the law, which, together with two resolutions moved by his own friends, were referred to him for consideration and a report thereon, he entered into an elaborate vindication of the justice and policy of the obnoxious tax, and endeavored to show that the objections to it were, in almost every instance, without foundation.<sup>2</sup> Very few alterations were made in the law, and those not of a nature to divest it of its unpopular character. A leading member of Congress, from that portion of the Union where the objections to the law had assumed the greatest prominence, has left an instructive contemporary history

<sup>1</sup> There is so remarkable a coincidence between the wise maxim of administration here laid down by Washington, and that so eloquently urged by Mr. Madison in closing the debate on the Bank Bill in February, 1791, that we cannot refrain from exhibiting them in close connection. Animadverting on the doctrine, in favor of "an energetic administration of government," inculcated by the patrons and advocates of a national bank, — "Mr. Madison stated the princi-

ples on which he conceived the government should be administered; and added that other gentlemen may have had other ideas on the subject, and may have consented to the ratification of the Constitution on different principles and expectations. He considered *the enlightened opinion and affections of the people the only solid basis for the support of this government.*"—Ann. Cong. (1789–1791), p. 2011.

<sup>2</sup> See report of the secretary, of the 5th of March, 1792.

of those transactions, in which the following statement appears:—

“When the report was made, few of such amendments were proposed as I had advised. Some of them I endeavored to introduce in the House, and succeeded so far as to have the tax made one cent lower than the secretary reported. But this did not equalize it with the tax on other spirits, in proportion to the then selling prices in the market; much less did it answer the political purpose of reconciling the people to it.”<sup>1</sup>

The new law was passed on the 8th of May, 1792; and it was in the month of August following that those combinations to obstruct its execution took place in the western counties of Pennsylvania, which have been already noticed,<sup>2</sup> and which led to the executive proclamation of the 15th of September, 1792. The tax had excited a lively and extensive dissatisfaction through all the States south of New York; but it was in the four counties of Pennsylvania lying west of the Alleghany mountains, that the spirit of opposition was most violent, giving rise to numerous public meetings to discountenance a compliance with the law, and in some instances breaking out into tumults and disorder. The proclamation issued on that occasion at the instance of the secretary of the treasury, and prepared by him, admonished all persons to desist from irregular

<sup>1</sup> Findley's History of the Insurrection in Pennsylvania, pp. 274, 275.

<sup>2</sup> Ante, chap. XLV., and page 264.

combinations to obstruct the operation of the laws; and announced the solemn determination of the government "to put in execution all lawful ways and means for *bringing to justice* the infractors thereof, and securing obedience thereto."

And yet repeated instances of a forcible resistance to the law, and a persevering refusal to comply with its provisions, were allowed to go on for the space of two years more, without employing the ordinary, and then all-sufficient, means furnished by the judicial tribunals of the country to bring the offenders to justice; or, if in any instance such means were resorted to, it was in so bungling and desultory a manner, owing to the negligence or incompetence of the agents employed, that they terminated in ridiculous abortion, which served only to embolden the offenders to still greater outrage. The secretary himself, in an official report to the President,<sup>1</sup> admits that the failure "to establish examples of punishment" — a failure which he vainly endeavors to excuse, by "the idea of giving time for the law to extend itself in scenes where the dissatisfaction with it was not the effect of an improper spirit" — had greatly added to the power, as well as boldness, of the opposition in the more disturbed districts. There is too much reason to believe that the secretary, prepossessed with the theory that the coercion of the sword, and not the peaceful coercion of the law, constituted the true remedy for the disorders of the State, was not unwilling

<sup>1</sup> Of the 5th of August, 1794



to see the spirit of license increase by impunity, until it should bid defiance to every means of repression but the strong arm of military power, which he desired to employ.<sup>1</sup>

<sup>1</sup> This is boldly charged against the secretary, and the charge sustained, by significant facts, in Findley's History of the Insurrection, pp. 73, 74, 223-226, 273, 274, and 299, 300. To the array of facts there presented, and the inferences deducible from them, may be added the following corroborative evidence. That Colonel Hamilton believed the Constitution of the United States as it came from the hands of its framers, and indeed that all republican government, was radically defective in the requisite *energy*; and that he looked forward with eagerness to some "crisis," as he called it, or civil convulsion justifying a recourse to the sword, as the only means of supplying what he considered so fatal a defect—is abundantly shown by the private correspondence both of himself and of his intimate friends. Gouverneur Morris, the most confidential, perhaps, of all his friends, in a letter addressed to Colonel Aaron Ogden in 1804, says, "Colonel Hamilton well knew that his favorite form, monarchy, was inadmissible, unless as the result of civil war; and I suspect that his belief in that which he called an *approaching crisis* arose from a conviction that the kind of government most suitable, in his opinion, to this extensive country, could be established in no other way."—Life and Correspondence of G. Morris, vol.

III. p. 217. See, to the same effect, a letter of later date (1811), from Mr. Morris to Mr. Walsh (*idem*, p. 261); and a remarkable letter of Colonel Hamilton himself, to Mr. Rufus King, written a year or two before his death, in Hamilton's Work's, vol. VI. p. 530.

That Colonel Hamilton also saw, or imagined that he saw, in the troubles of Western Pennsylvania, if they were permitted to ripen to a well-defined *crisis*, a favorable opportunity of applying his sovereign remedy for the defects of the Constitution, is in like manner abundantly shown by contemporary revelations of his avowed opinions and plans of policy. In the consultations of the cabinet on the course to be pursued towards the disaffected district, he proclaimed the startling dogma, that "*a government can never be said to be established until some signal display has manifested its power of military coercion*;" and, with reference to the same subject, he expressed the wish that "the people assembled at Braddock's field had burnt Pittsburg, as they threatened to do," that the less scruple might be felt respecting the coveted employment of force. (Official letter of Edmund Randolph, secretary of State, to the President, 5th August, 1794; and his "Vindication," p. 64.) Thus closely, though perhaps unconsciously, did the secretary of

Thus it was that when, at last, he made a show of resorting to the process of the courts, which had been so long neglected or permitted to be set at naught, the malcontents arrayed themselves in flagrant resistance to the authority of the law; while the violence, temerity, or unpopularity of the officers employed in its execution furnished to the excited multitude every provocation to bring on the final conflict. The marshal of the court, being in company with the inspector of the revenue who had rendered himself universally odious, was fired upon; the house of the inspector, from which shots were first directed, with fatal effect, upon a mob that approached it, was burned and destroyed; and, under the angry and bloody passions thus kindled, a large assemblage of the people took place, a few days afterwards, on a spot (Braddock's field) already rendered memorable by the disasters of foreign and savage war, before the birth of the republic,—some of them armed, and the great body of them apparently actuated by a determination to resist, at every hazard, the execution of the obnoxious law. The consummation, so long preparing, was at last reached. A judge of the circuit court of the United States gave the certificate required by law, that “the execution of the laws was obstructed by a combination too powerful to be

the treasury copy his prototype, Strafford, who, when viceroy of Ireland, and pursuing the measures which led to the horrible rebellion of 1641, coolly told his parliament,

“I have two ends in view, either of which will suit me: absolute submission to his majesty's demands, or a just occasion for breach. The first will be best for you.”

suppressed by the ordinary course of judicial proceedings;" and, on the 7th day of August, 1794, the President issued his proclamation, announcing his intention to call forth the militia for the enforcement of the laws, unless the disorderly and treasonable opposition to them should cease; and calling upon the insurgents, and all persons connected with them, to disperse and retire to their respective homes on or before the first day of September ensuing.

This step was taken, with the deepest pain and reluctance, by the President. But, upon a full and anxious consideration of the circumstances of the case, "the high and irresistible duty consigned to him by the Constitution, 'to take care that the laws be faithfully executed,' and his solemn oath 'to support, defend, and preserve the Constitution,' left him, in his judgment, no alternative." To avert, if possible, at the last moment the painful necessity of an ultimate resort to force, he accompanied his proclamation with the appointment of commissioners, charged to repair to the scene of disorder; and by conciliatory appeals to the duty and better feelings of the inhabitants, and the promise of pardon to such as should give satisfactory assurance of obedience to the laws, to bring them back, by their own reflections, to the demeanor of faithful and good citizens. Although many most gladly complied with the conditions required of them, the short time to which the visit of the commissioners was limited did not produce sufficient evidence of a general and



unequivocal return to peaceful and orderly sentiments, to justify, in the opinion of the President, an abandonment of the measures which had been taken by him with so much reluctance.

The bodies of militia — assembled from the four States of New Jersey, Pennsylvania, Maryland, and Virginia, amounting to fifteen thousand, and placed under the command of General Lee, governor of the last-named State — were therefore permitted to proceed on their destination. The President, who visited their headquarters at Carlisle and Cumberland before their departure, in order to infuse into them the proper spirit of citizen-soldiers, no less than to inspect their military condition, took the further precaution, when about to return to the seat of government, to enjoin upon them, through a public letter which he addressed to their commander, a punctilious observance of the laws, and a sacred respect for the rights of peaceable and unarmed citizens. “The province of the military in a free government,” he said, “is confined to two objects: first, to combat and subdue all who may be found in arms in opposition to the national will and authority; secondly, to aid and support the civil magistrates in bringing offenders to justice. The dispensation of this justice belongs to the civil magistrate; and *there let it ever be our pride and glory to leave the sacred deposit inviolate.*” In another letter, addressed, a short time after, to the secretary of the treasury, who accompanied the expedition, he repeated with emphatic earnestness,

“Press the governors to be pointed in ordering the officers under their command to march back with their respective corps, and to see that the inhabitants meet with no disgraceful insults or injuries from them.”

Such was the tender and watchful solicitude of Washington to guard the rights of the citizen, while firmly but reluctantly employing the military arm to uphold the laws against those whom a spirit of intemperate zeal or seditious violence had arrayed in opposition to them. The very fact of a recurrence to force, however necessary it had become under the circumstances of the case, was to him a most distressing and mortifying one. In his speech to Congress at the opening of its session, he said, “To array citizen against citizen, to publish to the world the dishonor of such excesses, to encounter the expense and other embarrassment of so distant an expedition, were steps too delicate, too closely interwoven with many affecting considerations, to be lightly adopted. I postponed, therefore, the summoning of the militia immediately into the field.” His highest ambition, the cherished aim of his life, had ever been to see the laws of his country resting for their support on the voluntary obedience and affections of the people, and not on the terrors and uplifted arm of power. In answer to an address of the inhabitants of Carlisle, while on his visit to the army, he said most feelingly and touchingly, “In any case in which it may become necessary to raise the sword of justice, I shall deprecate

the necessity of deviating from a favorite aim, — that of establishing the authority of the laws in the affections of all, rather than in the fears of any.” His whole conduct in the trying scenes through which we have followed him was in harmonious keeping with these sentiments, — the inspiration of a generous and noble mind, and gracefully befitting the position and character of a republican chief-magistrate.

Very different, however, were the feelings of him upon whom devolved the immediate execution of the measures of the government. The secretary of the treasury, upon the plea that the law which was resisted was one that particularly concerned his department, and that he was the principal and responsible adviser of the course now pursued, earnestly requested to be permitted to accompany the expedition.<sup>1</sup> This request, however unbecoming, could not well be refused; and the spirit of the secretary, though without any special authority delegated to him, prevailed in every act and movement of the expedition. That this spirit was one of deep and brooding resentment against the refractory opposers of the law, their suspected leaders, and even the authorities of the State which was the scene of the disorder; and of an eager desire to assert the military power of the government, — is too plainly manifested by the now-published correspondence of the secretary, to admit of any plausible doubt.

In a letter of the 22d September, 1794, to an in-

<sup>1</sup> See his letter to the President, *Hamilton's Works*, vol. v. p. 30.



timate personal and political friend, he says, "The returns from the western counties of this State are just come to hand. Notwithstanding a valuable division, they show a great number still uncomplying and violent, so as to afford no appearance of submission to the laws *without the application of force*. It will give you pleasure to learn, that there is every prospect of our being able to apply this *effectually*, and of the issue being favorable to the authority of the laws. It will occasion a large bill of costs; but *what is that compared with the object?*" In another letter of later date to the same friend, while recommending a process of outlawry against those of the offenders who may have escaped, to compel them to abandon their property, houses, and country, he says, "This business must not be *skinned over*. The political *putrefaction* of Pennsylvania is greater than I had any idea of. Without *rigor* everywhere, our prosperity is likely to be of very short duration; and the next storm will be infinitely worse than the present one."<sup>1</sup>

When the expedition penetrated into the country which had been recently agitated by the opposition to the excise, it found no body of armed citizens to make war upon; nor, indeed, a single individual under arms. The expedition turned out to be, as it was epigrammatically described at the time, "a war upon unarmed men at their ploughs."<sup>2</sup> The military, having none of that vocation for them

<sup>1</sup> Letters to Rufus King, Hamilton's Works, vol. v. pp. 610, 611.

<sup>2</sup> Letter of Mr. Jefferson.—See his Writings, &c., vol. III.

which has been said to make “ambition virtue,” were employed in the degrading office of surprising unarmed men in their beds at night, and dragging them forth without any *process of law* to authorize it; the secretary alleging it to be a principle of the common law, that “every person may, of right, arrest a *traitor*.”<sup>1</sup> In this manner, men of innocent lives, and even of meritorious conduct in the late commotions, were hurried off from their homes and families, thrown together in damp cellars or other rude and unwholesome places of confinement, tied back to back, and subjected to every species of outrage and indignity.<sup>2</sup>

From day to day the secretary communicated to the President, with great apparent satisfaction and complacency, these novel and SUCCESSFUL operations of the army, of which he was believed to be the animating soul, if not official director. One day he writes, “I hope good objects for punishment will be found, notwithstanding many have gone off.” Of a distinguished citizen of Western Pennsylvania, he says, “It is proved that Brackenridge did not subscribe the conditions of amnesty till after the day, and that he has been the *worst of all scoundrels*.”<sup>3</sup> Three other distinguished citizens of that part of Pennsylvania — Messrs. Gallatin, Findley, and Smilie (the last two then members of Congress, and the other destined soon to be, and to

<sup>1</sup> Hamilton to the President, 8th November, 1794. — See Hamilton's Works, vol. v. p. 51.

<sup>2</sup> See Findley's History, &c., pp. 203–209.

<sup>3</sup> Hamilton's Works, vol. v. p. 51.

take rank with the first statesmen of America)—were also objects of the fiercest resentment of the secretary, from their known disapprobation of, and constitutional opposition to, the favorite measures of the treasury. Every effort was made by him, though in vain, to bring them under the penalties of his ever-ready denunciation of “traitors.”<sup>1</sup>

On the 11th November, 1794, he writes to the President, “To-morrow the measures for apprehending persons and seizing stills will be carried into effect. I hope there will be found characters for examples, or *who can be made so.*” Four days later he writes, “A number of persons have been apprehended. Twenty of them are in confinement at this place; others have not yet arrived. Several of them in confinement are fit subjects for examples; and it is probable, from the evidence already collected, and what is expected, that enough will be proved.” On the 17th of November he communicates the grand result of the operations of the army in “*one hundred and fifty arrests*” of

<sup>1</sup> See Findley's History, &c., pp. 228–230, 236, 237, and 239–249. The feelings of the secretary were never more truly reflected than in the language of Oliver Wolcott, comptroller of the treasury, who was in daily relations of the most intimate confidence with his chief, and who adopted without reserve both his passions and opinions. This friend and confidant of the secretary, in a letter of the 23d September, 1794, to his father, thus ferociously denounces the gentle-

men mentioned in the text: “All the great rogues, who began the mischief, have submitted and become partisans of government. Findley, Smilie, Gallatin, &c., are of this class. The principles of justice and policy required that these men should be *hanged*; but, as they have deserted their party, the punishment will fall upon persons less criminal and influential.” — See Gibbs's Memoirs, &c., vol. i. p. 159.



unarmed and unresisting citizens ; out of whom, he again writes, on the 19th, the day of his setting-out on his return to Philadelphia, “ there is a sufficient number of proper ones for examples, and with sufficient evidence.”<sup>1</sup>

And yet, of this long list of predestined victims, over which the secretary seemed to gloat with the keen and insatiate appetite of a Jeffreys, but two men, ignorant and obscure, were found guilty of treason ; and they were pardoned by the President, who subsequently proclaimed a general amnesty to all that had been accused of participation in the so-called insurrection, using these memorable words in his communication to Congress on the occasion : “ Though I shall always think it a sacred duty to exercise, with firmness and energy, the constitutional powers with which I am vested, yet it appears to me no less consistent with the public good than it is with my personal feelings, to mingle, in the operations of the government, every degree of moderation and tenderness which the national justice, dignity, and safety may permit.”<sup>2</sup> Thus did the serene wisdom and humanity of the President, true to the glorious title of “ Father of his country,” avert from it a flood of bitterness and calamity, which the headlong spirit of despotism and intemperate vengeance seemed to be preparing for it.

While these agitating scenes, of which Mr. Mad-

<sup>1</sup> The letters here referred to will all be found in Hamilton's Works, vol. v. pp. 51-55.

<sup>2</sup> President's speech to Congress, December, 1795.

ison was a distant but anxious spectator, were passing on the public stage, a change, of the deepest interest to him, occurred in his private relations. On the 15th day of September, 1794, he was married to Mrs. Dorothea Payne Todd, who, for the space of forty-two years, till the close of his eventful life, was the faithful and tender companion of his bosom, the partner of his joys and sorrows, and the ornament, as well as helpmeet, of his household. This lady, besides a graceful and attractive person, was endowed with a sweetness of temper, and an unvarying tact and good sense, which fitted her eminently to play the part that devolved upon her in the future elevated fortunes of her husband; diffusing around her, in the Presidential mansion and in the social circles of Washington, an atmosphere of smiles and good humor, in which every sentiment of political animosity was for the time extinguished and forgotten. She was a native of Virginia, having removed, with her parents, from that State to the city of Philadelphia, where at an early age she married a member of the Pennsylvania bar, Mr. Todd, who soon after died, leaving her an only son. The veil of early widowhood did not conceal her attractions. Among the rival candidates for her affections, Mr. Madison, then in the zenith of his parliamentary fame, with the advantage of a winning address and rare colloquial accomplishments, became the favored object of her choice.<sup>1</sup>

<sup>1</sup> The marriage of Mr. Madison took place in Virginia, in the county of Frederick, at the house of Mr. Steptoe Washington, who

Soon after his marriage, he was called to resume his duties in Congress, which had adjourned to the 3d day of November; but, owing to the failure of the Senate to form a quorum before the 18th of November, the President's speech to the two Houses was not delivered until the 19th. The painful events which had recently occurred, and led to the armed intervention of the government, formed, naturally, the principal topic of the speech. In retracing the origin and progress of those events, the President referred to "certain *self-created societies*, which assumed the tone of condemnation" towards the government, as having exercised an evil influence in the district which was the scene of the commotion. This allusion, from the context in which it stood, plainly referred to those local associations of the district which had been formed to defeat the operation of the excise law. In a subsequent part of the speech, a more general allusion was made to "combinations

had previously married a sister of Mrs. Todd. Connected thus with the family of General Washington, she was a relative also of Patrick Henry, who always took pride in recalling the relationship. We have seen in what terms Mr. Madison congratulated Mr. Monroe on his marriage a few years before. — Ante, vol. II. p. 107. He now announced his own marriage in a letter from Philadelphia to that gentleman, residing at the time in Paris, as Minister of the United States, in the language of their intimate and affectionate relations:

"Present my best respects to Mrs. Monroe and Eliza, and tell them I shall be able, on their return, to present them with a new acquaintance, who is prepared by my representations to receive them with all the affection they merit, and who, I flatter myself, will be entitled to theirs. The event which puts this in my power took place on the 15th of September. We are at present inhabitants of the house which you occupied last winter, and shall continue in it during the session of Congress."



of men," exciting "suspicions and jealousies of the whole government," which, in its natural interpretation, was applicable only to political associations.

The associations which were the special object of the latter allusion were understood to be the *Democratic societies* (so called) that had sprung up in various parts of the country soon after the arrival of M. Genet, for the professed object of sustaining the principles of liberty and of the Constitution, and which indulged in very free and often intemperate animadversions on the measures and policy of the government in all its branches.<sup>1</sup> The President entertained the belief, that the inflammatory proceedings of these societies tended to excite a general discontent among the people, and thereby to foment a spirit of opposition to the laws.

<sup>1</sup> The Democratic societies here mentioned, which possess a certain historical celebrity in our annals, embraced in their origin many men distinguished for learning and social worth, who seemed to have been alarmed for the cause of liberty throughout the world by the despotic combinations of Europe, and the encroachments threatened, as they thought, in America. The Democratic society of Pennsylvania, probably the first formed in the United States, had for its President the illustrious Rittenhouse; for its Vice-Presidents, William Coats and Charles Biddle; James Hutchinson, Alexander J. Dallas, Michael Leib, Jonathan D. Sargeant, and David Jackson, for its committee of correspondence; and J. Porter and P. S. Duponceau for

its secretaries. A circular, issued on the fourth of July, 1793, under the sanction of these well-known and distinguished names, together with a copy of the constitution of the society, adopted the 30th of May of the same year, will be found in the "United-States Gazette," Philadelphia, of the 13th July, 1793. In the progress of the exciting events of the day, men of more violent passions became connected with the society, especially in its affiliated branches; and, after a few years, the whole organization, as both General Washington and Mr. Madison foresaw and declared would be the consequence of intemperance and overheated zeal in their proceedings, fell by the weight of public opinion, and disappeared from the political scene.

But he deemed too highly of the inestimable privilege of the people, in a republican government, to freely examine and comment on the conduct and measures of the public functionaries, ever to have thought of *arraigning before Congress*, for *their* action, the exercise of that privilege, however abusive or extravagant any particular instance of it might appear to him to be. He was persuaded, also, that “these things will work their own cure;”<sup>1</sup> and he meant only to invite the people themselves, in their own unbiassed judgment, to consider what might be the dangers of carrying to excess even the most vital and unquestionable of their rights.

Such, indeed, was the obvious and unequivocal import of his language. “To every *description of citizens* let praise be given. Let them persevere in their affectionate vigilance over that precious depository of American happiness, — the Constitution of the United States. . . . And when, in the calm moments of reflection, they shall retrace the origin and progress of the insurrection, let *them determine* whether it has not been fomented by combinations of men who, careless of consequences, and disregarding the unerring truth, that those who rouse, cannot always appease, a civil convulsion, have disseminated, from an ignorance or perversion of facts, suspicions, jealousies, and accusations of the whole government.”

But, however just and constitutional were the in-

<sup>1</sup> See letter to Burgess Ball, Sparks's Washington, vol. x. p. Esq., 25th September, 1794, 438.

tentions of the President in his incidental allusion to this subject, the anti-republican party in Congress were so eager to find an occasion, under the shadow of his great name, to denounce their opponents, and to attack the freedom of opinion and discussion secured to the people by the Constitution, that they resolved to wrest his words to a signification and purpose for which they were never meant. In the address of the Senate in answer to the speech, the proceedings of "the self-created [*democratic*] societies" were stigmatized as not only founded in political error, but "*calculated, if not intended, to disorganize the government itself.*" Mr. Madison, as usual, was appointed chairman of the committee of the House of Representatives to prepare the address of that body; and with him were associated Mr. Sedgwick of Massachusetts, and Mr. Scott of Pennsylvania. The same attempt which had so readily succeeded in the Senate, under the impulsion of its Federal leaders, with a compliant majority, was made in the committee of the House, to fulminate an anathema, in the name of the representatives of the people, against these "self-created societies." But the attempt was nobly met and repelled by Mr. Madison.

He reported to the House, with the sanction of a majority of the committee, the draft of an address, in which, while the resistance to the laws was characterized in indignant and becoming language, and a hearty homage paid to the conduct of the President in its repression as at once firm and humane,



no allusion was made to the proceedings or opinions of political associations among the people ; they not being deemed by the committee proper subjects for legislative action, or intended by the President to be so presented.

“We feel with you,” says the address of Mr. Madison, “the deepest regret at so painful an occurrence in the annals of our country. As men regardful of the interests of humanity, we look with grief at scenes which might have stained our land with civil blood. As lovers of public order, we lament that it has suffered so flagrant a violation ; as friends of republican government, we deplore every occasion which, in the hands of its enemies, may be turned into a calumny against it.

“This aspect of the crisis, however, is happily not the only one which it presents. There is another which yields all the consolations you have drawn from it. It has demonstrated to the candid world, as well as to the American people themselves, that the great body of the latter everywhere are equally attached to the vital principle of our Constitution, which enjoins that the will of the majority shall prevail ; that they understand the indissoluble union between true liberty and regular government ; that they feel their duties no less than they are watchful over their rights ; that they will be as ready at all times to crush licentiousness, as they have been to defeat usurpation.

“These are the just inferences flowing from the promptitude with which the summons to the stand-

ard of the laws has been obeyed, and from the sentiments which have been witnessed in every description of citizens in every quarter of the Union. The spectacle, therefore, when viewed in its true light, may well be affirmed to display, with equal lustre, the virtues of the American character and the value of republican government. All must particularly acknowledge and applaud the patriotism of that portion of citizens who have freely sacrificed every thing less dear than the love of their country to the meritorious task of defending its happiness.

“In the part which you have yourself borne through this delicate and distressing period, we trace the additional proofs it has afforded of your solicitude for the public good. Your laudable and successful endeavors to render lenity in executing the laws conducive to their real energy, and to convert tumult into order without the effusion of blood, form a particular title to the confidence and praise of your constituents. In all that may be found necessary, on our part, to complete this benevolent purpose, and to secure the ministers and friends of the laws against the remains of danger, our due co-operation will be afforded.”

These loyal and manly declarations of the address, strong and unequivocal as they were in condemnation of the insurrection, and in ardent approval of the measures of the executive for its suppression, did not fulfil the party views of the Federal leaders. They had made up their minds

to be satisfied with nothing short of a sweeping, legislative proscription of the *democratic* societies, under the name of "self-constituted societies," for the freedom with which they had exercised the right of the people, in a republic, of condemning or approving the acts of the government, according to their independent judgment. When the address, therefore, was taken up for consideration, Mr. Fitzsimmons of Pennsylvania, as the organ of his party,<sup>1</sup> moved as an amendment the following addition to the reported draught:—

"We cannot withhold our reprobation of the *self-constituted societies* which have risen up in some parts of the Union, misrepresenting the conduct of the government and disturbing the operation of the laws; and which, by deceiving the ignorant and the weak, may naturally be supposed to have stimulated and urged the insurrection."

This amendment, slightly modified by the mover, became the subject of warm debate, both in Committee of the Whole and in the House. On the one side, there was a vehement arraignment of the

<sup>1</sup> Colonel Hamilton generally dictated all the measures of the Federal party in Congress. When Mr. Fitzsimmons's resolution was offered, he had not returned from his expedition to Western Pennsylvania; but, the very day of his arrival in Philadelphia, he addressed a letter to that gentleman, *prompting* him with facts and arguments to support the resolution, and urging its prosecution. Feeling the delicacy, if not absolute

impropriety, of this intrusion upon the deliberations of the legislative department, he concluded his letter with saying, "These facts may be asserted as founded upon good proof and information recently received, though it would not be consistent with decorum to name me. Make what use you please of this, and communicate it to other friends."—See this letter in *Hist. Am. Rep., &c., &c., vol. vi. pp. 123, 124.*



democratic societies, as tending to excite a distrust of the administration of the government, and to produce a spirit of disaffection among the people. On the other, without any attempt to justify the intemperance of those societies, but on the contrary admitting in many cases the excesses into which they had been led, and disavowing all affiliation with them, the opponents of the amendment saw, in the proposed legislative denunciation, a dangerous attack on a vital principle of the Constitution and of republican liberty. Mr. Madison thus lucidly and forcibly summed up his objections to the amendment: —

“When the people form a constitution of government, they retain those rights which are not expressly delegated. It is a question whether what is thus retained can be legislated upon. Opinions are not the objects of legislation. You propose to animadvert on the abuse of reserved rights. How far will this go? It may extend to the destruction of the liberty of speech and of the press. It is in vain to say that this indiscriminate censure is no punishment. Whether it falls on classes or individuals, it will be a severe punishment. He wished it to be considered how extremely guarded the Constitution is, in respect to cases not within its limits. . . .”

If we advert to the nature of republican government in general, we shall find the censorial power is in the people over the government, and not in the government over the people. As he had con-

fidence in the good sense and patriotism of the people, he did not anticipate any lasting evil to result from the publications of these societies. They will stand or fall by the public opinion. No line can be drawn in this case. The law is the only rule of right. What is consistent with that, is not punishable. What is not contrary to that, if not innocent, is at least not censurable by the legislative body."

The struggle upon the proposed amendment was continued, with doubtful and varying success, for nearly a whole week. In Committee of the Whole, a motion to strike out the words "self-constituted societies," which formed the bone of contention between parties, was carried by a vote of forty-seven to forty-five. Afterwards in the House these words were reinstated by an exact reversal of the former vote; forty-seven being now for retaining them, and forty-five against. A further amendment was then made by a divided vote of forty-six to forty-six, in which the speaker, siding with the yeas, gave them a majority, restricting the reinstated words to "the four western counties of Pennsylvania and parts adjacent." The proposition of Mr. Fitzsimmons being thus divested of its application to the democratic societies generally, which gave it its whole value in the eyes of its Federal supporters, there were but nineteen votes given in favor of his amendment as amended, when the question recurred upon its adoption; and so the victory, which seemed at one time in the hands of the Federalists, was finally wrested from them by their Republican opponents.

Thus happily terminated a crisis full of peril to republican institutions in America. Universal experience has shown, that nothing favors the growth of despotism in a country so much as a revolt against the authority of the laws, when once crushed by the arm of power. In all ages, the greatest friends of despotism, in practice, have been the reckless advocates or artful instigators of popular violence and licentiousness. When the rash attempt at revolutionary redress for public grievances, often entered upon without counting the cost, or the probabilities and means of success, has failed, the stimulus of revenge is superadded to that of ambition on the side of the triumphant party; and new and plausible pretexts for the indulgence of both are drawn from the recent convulsions, and the necessity of guarding against their recurrence by a strong hand and a watchful eye.

Mr. Madison, writing to his friend Mr. Monroe, then in Paris, makes the following sagacious reflections with regard to the recent events in America:—

“ You will learn from the newspapers and official communications the unfortunate scene in Western Pennsylvania, which unfolded itself during the recess. . . . The event was, in several respects, a critical one for the cause of liberty; and the real authors of it, if not in the service, were in the most effectual manner doing the business, of despotism. You well know the general tendency of insurrections to increase the momentum of power. You will recollect the particular effect of what happened



some years ago, in Massachusetts. Precisely the same effect was to be dreaded, on a larger scale, in this case. There were enough, as you may well suppose, ready to give the same turn to the crisis, and to propagate the same impressions from it."

What added to the danger of the crisis in America was the contemporary example of the English government in the treatment of similar disorders, and the habitual proneness of a large party in this country to follow blindly in the footsteps of English precedent. Never since the reign of the Stuarts had there been such high-handed measures pursued by a British Minister to repress the freedom of opinion, as by Mr. Pitt after the breaking out of the French revolution, under the pretext of guarding against the inroad of French anarchical principles. Proclamations against sedition, calling forth the militia to suppress imaginary insurrections; arrests, imprisonments, and prosecutions for constructive treason, — had become almost the daily expedients of his government.<sup>1</sup> It so happened that in this very year he inaugurated a formal war against certain popular societies, whose professed objects were parliamentary reform and redress of grievances, by

<sup>1</sup> See particularly proclamation of 21st May, 1792, against dispersion of seditious writing, followed by the wanton prosecutions of Holt and Winterbotham; and another of 1st December, 1792, calling forth the militia to suppress an alleged insurrection, where there was nothing but one or two slight

riots; followed by the prosecution and cruel punishment of Muir, Palmer, and others in Scotland. — Belsham's *Great Britain*, vol. VIII. pp. 429-431, and pp. 500-504; idem, vol. IX. pp. 78-80. Also *British Annual Register* for years 1792, 1793.

arresting a dozen or more of their members upon charges of constructive treason, seizing their papers, and sending down a denunciation of them to Parliament, as engaged in a conspiracy against the very existence of the government.<sup>1</sup>

Under the influence of the panic which the Minister had created and assiduously fostered out of the Gorgon terrors of the French revolution, he had no difficulty in commanding overwhelming majorities in Parliament for whatever measures he proposed; and a bill for suspending the great remedial writ of *habeas corpus* was promptly carried by a vote of five to one. At the same time superserviceable addresses were voted by both Houses to the king, assuring him of their loyalty and determination to *punish* the participators in the conspiracy laid before them, and to invest him with additional and extraordinary powers for the suppression of attempts against government.<sup>2</sup> This display of what was called *energy* in government was too attractive from the source whence it emanated, and too much in harmony with the avowed and well-known principles of the great Federal leader in America, not to kindle the zeal and enlist the efforts of the whole party.

Happily, as we have seen, the effort to initiate the British policy in America, by a war upon the democratic societies for the boldness with which they had exercised the freedom of opinion, was defeated. What further measures might have been

<sup>1</sup> 12th May, 1794.

<sup>2</sup> See British Annual Register for 1794, p. 276.

attempted by a triumphant party in the intoxication of power, if this first attempt had succeeded, we are left to conjecture. If the English expedient of a suspension of the *habeas corpus* had not been ventured upon, the Sedition and Alien Bills, which it required four more years of arbitrary counsels to bring to maturity, would in all probability have now antedated their existence in history.<sup>1</sup>

<sup>1</sup> The noble repulse which the British Minister, all powerful as he seemed to be by the vast influence of the crown and the support of obedient majorities in Parliament, finally met with before the great bulwark of British freedom, the trial by jury, must not be forgotten as probably one of the causes which contributed to check for a time the career of Federal usurpation in America. The members of the popular societies arrested by him in May, 1794, and sent to the Tower on a charge of constructive treason for exposing the corruptions that had crept into the British government, and advocating their reform by a more equal representation in Parliament, were brought to trial in October and November, 1794. The first of the prisoners put on his deliverance was Thomas Hardy, a poor London shoemaker, who happened to be the secretary of one of the obnoxious societies. From the vital issues of constitutional liberty involved, the trial of this obscure and humble tradesman of the city of London attracted not less of public interest, and of a crowded and eager attendance of persons of the highest as well as

the lowest rank, than the impeachment of Warren Hastings, the official oppressor of rich and magnificent provinces, which was still dragging its slow length along before the most august tribunal of the kingdom.

The prosecution of the poor London shoemaker was opened, in a most labored *nine hours'* speech, by Sir John Scott, afterwards Lord Eldon and Lord High Chancellor of England. He was defended, and most nobly defended, by that eloquent and indomitable champion of the constitution of his country, and of the dignity and freedom of human nature, Thomas Erskine. The trial continued through eight long and anxious days, at the end of which the jury brought in a verdict of acquittal. Never was a verdict more cheering to the hearts of British freemen, or more honorable to the British name and constitution. It resounded from the halls and purlieus of the Old Bailey, where it was received with reverberating plaudits, to the remotest corners of Europe and America; animating the friends of liberty, and depressing in the same proportion the partisans and artificers of des-



There is every reason also to believe, that at one time a standing army was in serious contemplation, as the ordinary and only reliable instrument for carrying the laws into execution. Mr. Madison, in a letter to Mr. Jefferson of 16th November, 1794, says, "When I first arrived here, the conversation ran high for *a standing army to enforce the laws*."<sup>1</sup> But to this favorite scheme of the Federal leaders it was apprehended an insuperable obstacle would be found in the stern principles of the President. He had shown, when the suggestion of military force to carry the laws into execution was first brought to his mind, two years ago, by the secretary of the treasury, how deeply he was imbued with the salutary and enlightened jealousy of our ancestors in regard to a standing army in time of peace. It was not forgotten how emphatically he then said, "Not only the Constitution and laws must strictly govern, but the employing of the *regular troops* must be avoided, if it be possible to effect order without their aid." In his late speech to the two Houses of Congress, he had expressly pointed to the militia as the true constitutional instrument for overcoming a resistance to the laws, and earnestly recommended to Congress the devising a more perfect system for their organization, to qual-

potism, wherever its echoes were heard. The acquittal or discharge of the other prisoners, among whom was the celebrated John Horne Tooke, immediately followed, and crowned this great triumph of constitutional liberty and of the dignity

and independence of the human mind.

<sup>1</sup> See, to the same effect, his letter to Mr. Monroe of 4th December, 1794, Madison's Writings, vol. II. p. 24.

ify them for this and their other constitutional functions.

A committee, of which Mr. Giles was chairman, was appointed to take charge of this subject, and appears to have devoted itself earnestly and assiduously to the task. Such, however, was the disgust manifested by many members of the House at the very name of militia, notwithstanding the patriotism and zeal displayed by them in the late crisis, and such the predilection felt for the simpler and more manageable machinery of a standing army, that the bill reported by the committee encountered cavils and opposition at every step, and was finally given up in despair. A leading Federal member from New England gave utterance to the predominant feeling of his party in these words: "Some people pretend to be jealous of the New-England members, as attached to a standing army. The reason why they are so is because they despair of ever seeing a militia that will be worth a farthing." In fit association with this disparagement of the constitutional safeguard of a republic, he added the following remarks, betraying an inveterate hostility to the popular foundation on which republican government rests: "He thanked God that the government of the country was not left entirely to the House of Representatives, for he believed they would make most wretched work of it. There were other branches likewise. As to weakening the army for fear that it should enslave us, he thought it like a man

blunting the edge of his axe, for fear that he should cut his foot with it.”<sup>1</sup>

While this opposition was manifested to the plans for improving the organization and efficiency of the militia, every effort was made, by increased pay and extravagant bounties, to keep up the regular army to the extreme limit of the establishment authorized by law ; although the recent victory of Wayne, virtually putting an end to the Indian war ; an actual treaty concluded with the tribes of the Six Nations ; and the report, generally credited, of the amicable settlement of the difficulties with Great Britain, — afforded the soundest reasons for a reduction. The bill for keeping up the full numbers of the establishment was, nevertheless, zealously pushed and triumphantly carried. The *animus* with which this was done, on the part of many of its supporters, may be inferred from the following contemporary narrative by Mr. Madison of what passed in the progress of the measure through the House of Representatives : —

“ The present military establishment will be continued and completed, notwithstanding the late treaty with the Six Nations, the success of Wayne against the other tribes, and the disappearance of all ominous symptoms in the aspect of Great Britain. I am extremely sorry to remark a growing apathy to the evil and danger of standing armies. A vote passed two days ago, not only the evidence of that,

<sup>1</sup> Speech of Mr. Wadsworth of Connecticut, *Annals of Congress*, under date of 13th February, 1795.



but, if not the effect of unpardonable inattention, indicating a temper still more alarming. In the military acts now in force, there are words limiting the uses of the army to the protection of the frontiers. The bill lately brought in revised the whole subject, and omitted this limitation. It was proposed to reinstate the words. [The proposition was made by Mr. Madison.] This was rejected by a large majority. It was then proposed to substitute another phrase, free from the little criticisms urged against the first proposition. The debate brought out an avowal, that the executive ought to be free to use the regular troops, as well as the militia, in the support of the laws against our own citizens. Notwithstanding this, the amendment was lost by eight votes. The House was very thin ; and it is supposed a majority would have been in favor of the amendment, if all the members had been present. The mischief is, however, irremediable, as the Senate will greedily swallow the bill in its present form. This proceeding is the more extraordinary when the President's speech and the answer of the House of Representatives are recollected and compared with it."<sup>1</sup>

The rest of the proceedings of this Congress related mainly to various ineffectual schemes for a reduction of the public debt, and a proposition introduced by Mr. Madison, and finally carried by his exertions, for extending the probationary residence for acquiring to foreigners the rights of American

<sup>1</sup> Mr. Madison to Mr. Jefferson, 15th February, 1795.

citizenship, from two to five years. The part taken by him in the discussion of these subjects, as well as in all the debates of this session, while of great weight and influence on the deliberations of the House, bore one uniform and striking characteristic. His speeches were of extraordinary and pregnant brevity ; in no instance, probably, consuming more than fifteen or twenty minutes in the delivery. Yet, brief as they were, they embraced every thing necessary to the intelligent solution of the questions which they treated. They were addressed to the central and turning point of the debate, rejecting every thing collateral or subordinate. Like that on the proposed amendment of the address to the President respecting the democratic societies, of which we have given the outline from the contemporary reports of the debates of Congress, they present to the student of our parliamentary annals models of luminous and vigorous condensation, recalling the celebrated speech of Somers in the case of the seven bishops, of which it has been strikingly said, he spoke but little more than five minutes, and when he sat down his reputation as an orator and constitutional lawyer was established.<sup>1</sup>

At the same time his parliamentary discussions preserved a tone of philosophical fairness and honest candor which extorted the confidence and respect of his political opponents. Of this we have a proof before us, so honorable to both parties, that we

<sup>1</sup> Lord Macaulay's History of England

cannot refrain from presenting it to our readers. Among the Federal members of Congress during this session, none was more distinguished for eloquence, zeal, and ability, than Samuel Dexter of Massachusetts. In conjunction with these brilliant qualities, he had an internal fund of magnanimity and manliness, which enabled him, in the appreciation of kindred though rival merit, to rise superior to the prejudices of party. He and Mr. Madison, in the maintenance of their respective opinions, often encountered each other in the field of debate. Feeling painfully the difference of opinion with one whom he personally respected so much, and being about to leave Congress without any expectation of returning to it, he solicited an interview with Mr. Madison, for the purpose of learning from his own lips, in the unreserved confidence of private intercourse, the grounds of their differing creeds.

Mr. Madison cordially concurred in the proposed interview, which took place a few days afterwards in his own house. Of what passed at that interview, we have no record. But that it left on Mr. Dexter's mind durable impressions of the integrity and patriotism of Mr. Madison's political course, may well be inferred from the fact, that at a subsequent period, when Mr. Madison, as the head of the government, was engaged in a critical and doubtful conflict with hostile powers at home and abroad, Mr. Dexter, nobly renouncing every inferior consideration connected with party ties, came boldly to his support in the vindication



of the national rights and honor. As every thing is of interest relating to so rare an instance of mutual candor and magnanimity in the midst of party strife, as the interview we have referred to between these two distinguished political opponents, we subjoin below the only memorials which survive of it, in the letters of the parties proposing and accepting it.

#### N O T E .

The letter of Mr. Dexter, proposing the interview, was in these terms : —

PHILADELPHIA, 3d February, 1795.

SIR, — The subject of this is confidential. I have lately been told by a gentleman well acquainted with you, that he believed you were of opinion that a part of America is systematically struggling for a government incompatible with equal rights, and that your political conduct is governed by this apprehension. This has induced me strongly to wish for a conversation with you, if perfectly agreeable to you, confidential or not, as you may choose.

Then stating the different opinion he entertained, he proceeds, —

My respect, and that of the public, for your talents and integrity, have ever induced me to wish exceedingly for knowledge of the motives for your present line of politics, when compared with your former measures. A confidence that the motives are proper prevents me from feeling it indelicate to ask an explanation; and an expectation that neither my constituents nor myself shall consent to my being here another session, makes this the only time to receive it. If the proposed interview be perfectly agreeable to you, I will thank you for the information, and the time when it will be convenient. If on any account it is otherwise, I am content to know it, without assigning any reason, or even by silence.

I am, sir, with great respect, your obedient servant,

SAMUEL DEXTER, JR.

Mr. Madison's answer was as follows : —

PHILADELPHIA, 5th February, 1795.

SIR, — Your letter of the 3d instant did not fall into my hands till late last evening. As the conversation you propose can on no account be objectionable to me, I shall concur in it with the pleasure I ought to feel in complying with your wishes. Perhaps I ought myself to wish for an opportunity of removing one at least of the impressions you are under, which may not do full justice to the consistency between my present and former line of politics.

As you refer the time of our being together to me, I will take the liberty of asking your company at dinner on Sunday *en famille*, if you are unengaged for

that day; and after dinner we can be conveniently alone, and free from interruption. I should have proposed an earlier day, but that is the first I can command.

I remain, very respectfully, your obedient servant,

JAMES MADISON, JR.

To this Mr. Dexter replied by a few lines on the same day, cordially accepting the invitation of Mr. Madison, and apologizing for having *assumed* as a fact in his first note the supposed *change* in Mr. Madison's political opinions and conduct, which the party misrepresentations of the day had unjustly charged upon him.

## CHAPTER LI.

Colonel Hamilton, after repeated Postponements, at length resigns Office of Secretary of Treasury — Motives of his Retirement — Upon his Recommendation, Oliver Wolcott, Comptroller in the Department, appointed his Successor — Character of Wolcott — General Knox resigns Office of Secretary of War, and is succeeded by Timothy Pickering — His Character as drawn by his Political Associates — Retrospect of Mr. Jay's Mission and Diplomacy in England — His Instructions — Though deliberately sanctioned by the President, and approved by a Majority of the Cabinet, not concurred in by Colonel Hamilton — Outrages of British Agents in America — Indignant Letter of the President to Mr. Jay on the Subject — Wonderful Successes of the French Arms, and consequent Change in the Haughty Spirit of the British Government, invite to a Manly Assertion of our Rights — Mr. Jay's Memorial to Lord Grenville, published in the American Newspapers, excites Disgust by its Humiliating Tone — Letter of Mr. Madison on the Occasion — In his Audience of Reception by the King, Mr. Jay accommodates himself to the Royal Suggestion, that the United States and England ought to be *Friends* in the Common Cause of *Order and Religion* against the Atrocities of the *French Republic* — Mr. Jay's Conduct contrasted with that of his Predecessor, Mr. Adams, on a similar Occasion — A Treaty, contrary in several Important Respects to his Instructions, at length concluded by him — Submitted by the President to the Senate, who, by a bare Constitutional Majority, advise its Ratification — A Copy of the Treaty communicated to the Press by Mr. Stevens Thompson Mason, one of the Senators of Virginia — Outline of its Provisions — The Public Prepossessions against it greatly increased by Knowledge of its Contents — Forceful and Indignant Commentaries upon it in a Letter from Mr. Madison to Chancellor Livingston of New York, and in another addressed to Mr.



Dallas of Pennsylvania — Extreme Embarrassment of the President, who entertains Many and Strong Objections to the Treaty — British Government having renewed its Order for the Seizure of American Vessels laden with Provisions to France, he resolves not to ratify the Treaty until the Order is revoked — An Intercepted Dispatch of the French Minister, Fauchet, professing to give Account of Conversations held with American Secretary of State, Randolph, put by the British Minister in the hands of Wolcott, Secretary of the Treasury, to be used by him to promote the Ratification of the Treaty — The President, then at Mount Vernon, urged to return to the Seat of Government without Delay — Conduct of Messrs. Wolcott and Pickering in this Transaction — Dispatch carefully withheld from Knowledge of Secretary of State, and placed in the Hands of the President the Moment of his Arrival in Philadelphia — The Impressions which, unexplained, it makes on the Mind of the President, induce him at once, notwithstanding his Objections to the Treaty, to ratify it — Deep Reluctance with which he comes to this Conclusion freely expressed in his Confidential Correspondence with his Friends — Considerations by which he was influenced — Randolph, under a sense of Personal and Official Maltreatment, promptly resigns Office of Secretary of State.

DURING the session of Congress just elapsed, Colonel Hamilton at last carried into execution his frequently announced and as oft-postponed resolution<sup>1</sup> of resigning the office of secretary of the treasury. This resignation took place on the 31st of January, 1795. It was preceded by a flourish of trumpets, in the form of a communication to the speaker of the House of Representatives, challenging a further investigation, if it should be deemed necessary, into his official conduct. Reasons have been already given why this resignation would have come with a far better grace, and infinitely more

<sup>1</sup> See his letters to the President of 21st June, 1793, and 27th May, 1794, Sparks's Washington, vol. x. pp. 293 and 414.

propriety, at an antecedent period, when his great rival and associate in the executive councils retired; and when his own retirement, at the same time, would have left the President free and able to reconstruct his cabinet according to its original plan. Whatever may have been the motives which determined his withdrawal at this time, the step was evidently taken without the least intention of renouncing political pursuits; for his political activity, as we shall hereafter see, was never greater than after his resignation of the treasury department; and it appears, by a confidential letter of his to a friend and relative in Scotland, that he considered office in this country, from the prevailing jealousy of official station, and what he represented to be the progressive decline of executive authority here, an impediment rather than an aid to political ambition.<sup>1</sup>

<sup>1</sup> The letter here referred to will be found in *Hist. Am. Rep.*, &c., vol. vi. pp. 193, 194. Though Colonel Hamilton exercised an immense and almost unparalleled influence over his party, out of as well as in office, he had, very soon after the date of this letter, very conclusive, and what was to him most galling, proof of the different weight possessed by a man in private life, and when invested with the authority and patronage of office. Just before the consummation of his resignation, but after he had sent it in to the President, to take effect at an early day, he ventured upon the extraordinary step of addressing to Congress, without any call from

them, an elaborate and prolix communication on the public finances, suggesting various new, and some of them questionable, provisions for the further support of public credit. When the bill respecting the public debt came to be acted on, several of these provisions, to which he attached especial value, were opposed by leading members of his own party, he having then retired from office, and were lost. (See remarks of Mr. Hillhouse, Mr. Goodhue, and Mr. Fitzsimmons, in the *Annals of Congress*, under date of the 18th February, 1795.) His bitter and indignant denunciations on the occasion deserve to be cited as

Colonel Hamilton was succeeded in the treasury department by Oliver Wolcott, Jr., who had been first auditor, and then comptroller, of the treasury; which latter position he held at the time of Colonel Hamilton's resignation. The President was doubtless induced to appoint him by his long familiarity with the official routine, and what Colonel Hamilton called the "merely executive operations of the department."<sup>1</sup> The extreme discouragement the President had met with in his multiplied efforts to fill the department of State, at

instructive illustrations of his character, and especially of the intolerance and unsparing severity with which he treated his political friends, when they presumed to dissent from his recommendations or opinions.

On the 18th of February he wrote to his *fidus Achates*, Mr. Sedgwick, "Every moment's reflection increases my chagrin and disgust at the failure of the propositions concerning the unsubscribed debt. . . . I pray you let the yeas and nays separate the *wheat* from the *chaff*." To Mr. King, on the 21st February, he pours out his wrath in these burning words: "The unnecessary and capricious and *abominable assassination of the national honor*, by the rejection of the propositions respecting the unsubscribed debt in the House of Representatives [a rejection in which the Federal members above mentioned played the decisive part], haunts me every step I take, and afflicts me more than I can express. . . . Am I, then, more of an American

than those who drew their first breath on American ground? . . .

Am I a fool, a romantic Quixote? or is there a *constitutional defect in the American mind*? Were it not for yourself and a *few* others, I could adopt the reveries of De Paux as substantial truths, and say with him that there is something in the climate which belittles every animal, human or brute." In another letter to the same gentleman of 26th February, he makes specific denunciations by name: "So it seems that under the present administration of the department, Hillhouse and Goodhue are to be Ministers in the House of Representatives, and Ellsworth and Strong in the Senate. Fine work we shall have; but I swear the nation shall not be dishonored *with impunity*."—Hamilton's Works, vol. v. pp. 624-626.

<sup>1</sup> See the importunate letter of Colonel Hamilton to the President in 1791, urging the appointment of Wolcott as comptroller of the treasury.—Hamilton's Works, vol. iv. pp. 467-469.



the period of Mr. Jefferson's retirement, with a successor of the highest and most commanding qualifications, left him no hope of better success on the present occasion; and he felt himself reduced to the necessity of taking as successor to the treasury department one presumed, from his experience, to be adequately versed in the technical details, at least, of the office, and with whom he might hope to tide over the brief remnant of his administration.

To a man of the large soul of Washington, this was a most painful and mortifying position; but there seemed no remedy for it. Possessing no personal knowledge of the character of Wolcott (for his intercourse with the subordinate officers of government was always exceedingly limited), he was obliged to trust to the representations of those about him; and especially of Colonel Hamilton, so long the head of the department. A hint, given more than a year before from a different quarter,<sup>1</sup> that Mr. Wolcott bore the character of a "cunning man," had, no doubt, passed from his memory. But we shall be greatly mistaken if it does not soon appear, in the progress of this narrative, that the new secretary's proficiency in the little arts and chicanery of this "crooked wisdom," as it has been aptly called by a great philosopher and profound observer of human nature, constituted in truth his whole fund of statesmanship. "Nothing doth more hurt in a state," says the same great authority,<sup>2</sup> "than that cunning men pass for wise."

<sup>1</sup> Mr. Jefferson. — See his Writings, vol. iv. p. 494.

<sup>2</sup> Bacon.

About the same time, the resignation of General Knox called for the appointment of a new secretary of war. Here, again, the President was hampered by the same disheartening considerations which limited the scope of his selection in the case of the treasury. Driven, by his recent experience, to despair of obtaining a successor who would bring with him the large and liberal attainments of a counsellor and minister of State, he was constrained to look only for those special qualifications adapted to the strict business routine of the vacant department, and to look for them where he could probably command them. In Mr. Timothy Pickering, then filling the post-office department, but who had been successively adjutant-general, member of the board of war, and quartermaster-general of the army during the war of the revolution, he reasonably expected to find the requisite qualifications for a mere secretary at war.

But with these professional qualifications were unfortunately united a bitterness and violence of political prejudices, a narrowness of views, and an intractable temper, which wholly unfitted him for any wide sphere of public action. We have the portrait of this gentleman ready drawn to our hand by two of his most distinguished political associates, who did not always so well agree in their estimate of men or things. Colonel Hamilton, in a letter to the President in 1796, says, "Mr. Pickering, who is a very worthy man, has nevertheless something warm and angular in his temper, and

will much require a vigilant, moderating eye.”<sup>1</sup> Mr. Adams, who knew him well, thus describes him: “He is extremely susceptible of violent and inveterate prejudices; and yet such are the contradictions to be found in human character, that he is capable of very sudden transitions from one extreme to its opposite. Under the simple appearance of a bald head and straight hair, and under professions of profound republicanism, he conceals an ardent ambition, envious of every superior, and impatient of obscurity.”<sup>2</sup> No wonder that Washington should have said, as he is reported to have done, of the new secretaries imposed upon him by a cruel conjunction of sinister circumstances, if not by the unfaithfulness and designing views of professing friends, that “he considered them successors in *form only* to the deliberative talents of their predecessors.”<sup>3</sup>

We must now turn to the progress and results of Mr. Jay’s negotiation with the British government, in regard to which the most impenetrable mystery had hitherto prevailed. He left the United States on his mission early in May, 1794, and arrived in England on the 8th day of June. He took with him very detailed Instructions prepared by Mr. Randolph, secretary of State, and carefully considered and sanctioned by the President and a majority of the cabinet. He was to demand compensation for

<sup>1</sup> Hamilton’s Works, vol. vi. p. 163.

25th November, 1808. — See Cunningham’s Corr., pp. 55, 56.

<sup>2</sup> Letter to W. Cunningham,

<sup>3</sup> Randolph’s Vindication, p. 45.



the numerous spoliations committed upon the commerce of the United States, under the instructions and orders of the British government ; and to urge, as “ *of infinite importance*,” the recognition of the principle, that provisions are not to be esteemed contraband of war, except in the single case of attempting to introduce them into a place actually besieged.

With regard to the infractions of the treaty of peace by Great Britain, which had been the subject of unwavering reclamation and complaint, on the part of the United States, for more than ten years, he was to resume that business, and to press its adjustment on the principles which had been invariably laid down in all our previous negotiations ; to wit, an *immediate* surrender of the posts held by Great Britain within the limits of the United States, and compensation for the negroes removed in violation of the seventh article of the treaty. If the questions of commercial spoliations and infractions of the treaty of peace should be satisfactorily adjusted, then the Minister was authorized, in his discretion, to discuss the subject of a commercial treaty with Great Britain.

Among the general objects of such a treaty, the following were indicated as points of special importance : Reciprocity in navigation and trade to the West Indies, and even to the East Indies ; free ships to make free goods ; stipulations for the safety of neutral commerce in other respects, and especially by declaring provisions never to be contraband,

except, as above mentioned, in the instance of a besieged place; and no arrangement whatever to be made which "would interfere with our obligations to France." The Instructions then added, "If a treaty of commerce cannot be formed upon a basis as advantageous as this, *you are not to conclude or sign any such*; it being conceived that it would not be expedient, in that case, to do any thing more than to digest with the British Minister the articles of such a treaty as they appear willing to accede to, *referring them here for consideration and further instructions previous to a formal conclusion.*"

These Instructions, though deliberately approved by the President and a majority of the cabinet, did not, it seems, meet with the approbation of Colonel Hamilton. "The three first subdivisions of the Instructions as finally adopted," his biographer tells us, "Colonel Hamilton regarded as little creditable to the United States,"<sup>1</sup> — why or in what respects is left unexplained. A paper, however, drawn by Colonel Hamilton and submitted to the President, under the title of "Points to be considered in the Instructions to Mr. Jay," has been preserved, from which it appears that he was for recognizing, with very slight modifications, the pretended principles of maritime law under which such extensive violations had been committed of the neutral

<sup>1</sup> Hist. Am. Rep., &c., vol. vi. p. 200. It appears from a letter of Colonel Hamilton himself to the President, written nearly two years after the Instructions were given

(March, 1796), that he disliked and disapproved the Instructions at the time that they were given. — See Hamilton's Works, vol. vi. pp. 97, 98.

rights of the United States by the government of Great Britain; and that he was for granting to her the most favorable terms of commerce, even to the restraining of Congress from imposing any duties on her manufactures and productions above ten per cent, in consideration of an extremely limited reciprocity in the navigation and trade with the West Indies.<sup>1</sup>

On the very same day on which the Instructions of the government to Mr. Jay bore date, Colonel Hamilton himself addressed a letter to Mr. Jay, inclosing this paper, as containing *his* views of the principles on which the difficulties between the two countries might and should be adjusted. He kept up an active correspondence with Mr. Jay during the period of his mission; and his letters, there is reason to believe, were communicated, while the negotiation was pending, by Mr. Jay to the British secretary of State.<sup>2</sup> What encouragement must have been derived from such communications, com-

<sup>1</sup> See paper here referred to in Hamilton's Works, vol. iv. pp. 436-439. Just before the departure of Mr. Jay, a communication having been received from the British Minister here, re-affirming and justifying the obnoxious pretensions of his government, Colonel Hamilton earnestly dissuaded the secretary of State from too strongly contesting the British doctrines, lest he should have them returned upon him, sustained by a weight of authorities and precedent that could not be gainsaid. (Hamilton's Works, vol. iv. pp. 544, 545.) Very

much to the credit of the secretary of State, and to the great honor of the President, this advice was not heeded; and Mr. Randolph addressed to Mr. Hammond his victorious and exhaustive reply of the 1st of May, 1794. — See Am. State Papers (For. Relations), vol. i. pp. 450-454.

<sup>2</sup> We know positively from Mr. Jay himself, that one of these letters was communicated by him to Lord Grenville. — See his letter to Colonel Hamilton of 18th July, 1794, Hamilton's Works, vol. iv. p. 574.



ing from such a source, — by the one in demanding extreme concessions from the United States, and by the other in yielding them, — is too apparent to require explanation or development.

Many months had now elapsed without the slightest intimation of what was going forward in the negotiation on the other side of the Atlantic. On this side, several events had occurred of a most unpleasant and irritating character. On the 20th of May, 1794, only two weeks after the departure of Mr. Jay on his mission of peace, the President received information that Governor Simcoe of Upper Canada, with three companies of a British regiment, had penetrated into the territory of the United States twenty or thirty miles, to the rapids of the Miami, for the purpose of building a British fort there. This proceeding could be considered in no other light than a wanton and hostile invasion of the soil of the United States; and the secretary of State, by direction of the President, addressed a note to the British Minister resident here, to know if the information were true, and, if it should be, inviting him to take immediate measures to countermand and suppress the movement. To this communication no satisfactory answer, affirming or denying the reported movement, which subsequent intelligence confirmed to the American government, or offering any prospect of redress, was received from the British Minister. On the contrary, he took the occasion to bring forward, in the most irritating and offensive language, a long train of recrimina-

tory charges against the United States, which could have found countenance only in a most prejudiced and vindictive mind, and which were shown by the secretary of State to be utterly destitute of foundation.

About three months later, another outrage from the same imperious and encroaching quarter was made known to the government of the United States. The governor of Canada, through one of his military officers, sent an order to one of the peaceable settlers of the State of New York, on the American side of the Lakes, and far from any British post, threatening him with forcible expulsion if he should persist in his settlement. On this occasion the President found it impossible longer to repress his indignant feelings. On the 30th of August, 1794, he wrote to Mr. Jay, "I cannot restrain myself from making some observations on the most recent of these outrages, the communication of which was received only this morning, — I mean the protest of the governor of Upper Canada, delivered by Lieutenant Sheaffe, against our occupying lands far from any of their posts, which long ago they ought to have surrendered, and far within the known, and until now acknowledged, limits of the United States. . . . Can the British government, or will it, attempt, after this official act of one of their governors, to hold out ideas of friendly intentions towards the United States, and to suffer such conduct to pass with impunity? This may be considered the most open and daring act of the British

agents in America, though it is not the most hostile and cruel.”<sup>1</sup>

The strongest conviction was felt that these British agents were the real though secret instigators of the savage war which, for several years past, had been waged against the inhabitants of the frontiers; and, on a recent occasion, British soldiers had been taken prisoners, when in actual association with Indians in an attack on an American fort.<sup>2</sup> At the same time that these outrages were committed on land, the ocean continued to be the scene of unabated British vexations of American commerce; and, on the 12th of September, 1794, Mr. Randolph wrote to Mr. Jay, that “unjust and oppressive captures continue to be made of our property by British cruisers *on our very coasts.*”<sup>3</sup>

If inferences were to be drawn from these acts of British authority on the American side of the Atlantic, nothing but the most unfavorable auguries could be formed as to the issue of the pending negotiation. But mighty events were in progress in Europe, before which even the arrogant spirit of British domination was compelled to bend. That spirit had been inflated to the highest pitch by the military reverses of France in the preceding year, consequent on the fatal defection of Dumourier. But those very reverses had aroused to the utmost desperation the military prowess and energies of

<sup>1</sup> Sparks's Washington, vol. x.  
p. 434.

<sup>2</sup> Am. State Papers, For. Rel.,  
vol. i. p. 483.

<sup>3</sup> Idem, p. 485.



the French people ; and, before the close even of the campaign of 1793, the proud and confident armies of the coalition were driven back with discomfiture and shame. The campaign of 1794 soon renewed the prodigies of national energy and valor displayed by the republican armies of France, such as the world had never before witnessed ; and in which the disciplined hosts of the coalition, led in person by their sovereigns, their hereditary princes, and veteran generals of historic renown, were driven from post to post by the irresistible onset of the citizen soldiers of France, led on by generals whose names had never before been heard, but which were destined henceforward to an imperishable fame, — the Jourdain, the Pichegrus, the Klebers, the Hoches, the Moreaus, of revolutionary France.

It so happened, that the very day before the first interview of Mr. Jay with the British secretary of foreign affairs, the 18th of June, 1794, the battle of Ypres had been won by Moreau ; and a few days afterwards, the great battle of Fleurus was fought and won by Jourdain. It was these two memorable fields which opened the way for that unparalleled series of brilliant *coups de main*, or of vigorous and rapid advances, before which the Austrians, commanded at first by the emperor himself, and afterward by the Prince of Cobourg and Generals Wurmser and Beaulieu, the English by the Duke of York and the Earl of Moira, and the Dutch by the hereditary Prince of Orange, were expelled from every stronghold they had previously pos-

sessed in the Netherlands; and the republican eagles rested in succession on the towers of Ghent, of Brussels, of Antwerp, of Louvain, of Liège, and of Namur. Soon after, and while the negotiation of Mr. Jay was yet pending, — in November, 1794, — the Dutch fortresses of Maestricht and Nimeguen, though powerfully defended, yielded to the resistless ardor of the French troops, and prepared the way for that entire conquest of Holland, which crowned the marvels of this wonderful campaign. While these extraordinary events were going forward on the side of Belgium and Holland, the same career of unparalleled success attended the French arms in Germany along the Rhine, in Italy along the Alps, and in Spain along the Pyrenees. Everywhere the standard of the French republic, directed and impelled by the mighty genius of Carnot in the capital, was borne in triumph over prostrate and discomfited foes.

How completely the arrogant tone of the British government was changed by these wonderful achievements of the new-born power whose speedy downfall they had, a year before, so confidently predicted, is sufficiently attested by the measures now pursued in England, no longer for conquest abroad, but security at home. The king sent down a message to Parliament, calling for the organization of a large militia force to defend the kingdom from invasion; and the Minister brought in bills, which were promptly passed, not only for the organization of the militia, but to raise a volunteer force of horse

and foot in every county of the kingdom. The paltry expedient was even adopted of begging for pecuniary contributions from individuals, in addition to the parliamentary supplies, to aid the military operations of the government. This was done through formal letters addressed by the secretary of State to the lords-lieutenants of the several counties.<sup>1</sup>

Such was the state of things in England at the arrival of Mr. Jay, and during the whole period of his negotiation; and surely none could have been more favorable to a manly assertion of our rights, or have better authorized the expectation of a prompt and ample redress of the just complaints of the people of the United States. Still nothing was known to the public as to the progress of the negotiation, until a memorial addressed by Mr. Jay to Lord Grenville on the 30th of July, 1794, together with Lord Grenville's answer, was, in the latter part of October, promulgated through the American newspapers. The mitigated and subdued tone which Mr. Jay assumed in that paper, in representing the injuries and outrages committed by order of the British government on the property and rights of American citizens, excited no small degree of surprise, and gave rise in some minds to unfavorable auguries as to the results of a negotiation commenced in such a key. The unwarrantable depredations on American commerce were spoken of as "irregularities,"—"American vessels *irregu-*

<sup>1</sup> See Ann. Reg. (1794), pp. 234-237, and Belsh. G. B., vol. ix. pp. 148, 149.



larly captured, and *improperly* condemned, by certain of his majesty's officers and judges ;" and his majesty's "*magnanimity*" was appealed to, "to cause such compensation to be made to these *innocent sufferers*, as may be consistent with equity." Impressed American seamen, the victims of lawless and atrocious violence, were spoken of as "*unfortunate* individuals ;" and the "*benevolence* of his majesty" was again invoked through his organ of clemency, the foreign secretary, "to cause orders to be given that Americans so circumstanced should be immediately liberated, and that persons honored with his majesty's commissions do in future abstain from similar violences." <sup>1</sup>

The disgust produced in well-principled American minds by such a tone of subserviency, as well as the proud expectation of a redress of American grievances, derived from other and more potent causes, was most forcibly, as well as epigrammatically, expressed in a letter of this period from Mr. Madison to Mr. Jefferson. "According to the intelligence handed to the public," said he, "it would seem that the humiliating memorial of Jay inspires less *contempt* than the French victories do *terror* ; and that the tone in England towards this country is much changed. It is even intimated, that satisfactory arrangements will be made on most, if not all, the points in question." <sup>2</sup> The same state of

<sup>1</sup> American State Papers, For. Rel., vol. i. p. 477.

<sup>2</sup> Letter to Mr. Jefferson, 16th November, 1794. When the de-

spatches of Mr. Jay were, long afterwards (in 1832), first permitted to see the light, it appeared that he zealously sought to propi-

vague conjecture and uncertainty in the public mind, with regard to the prospects of the negotiation, continued until near the close of the session of Congress of 1794-95; when a report, as we have seen, reached the United States, that an ami-

tiate the British government and especially the king, by permitting them to take for granted an entire identity of views between them and the government of the United States with regard to the war then raging in Europe. In giving an account of his reception by the king, he says, "The reception I met with from both king and queen was affable and satisfactory, and perfectly calculated to create an opinion of the good-will of this government to the United States. The king seemed to be *well prepared* for the occasion. He expressed his confidence in the assurances I gave him of the disposition of the United States to cultivate peace and harmony. He intimated (but without any direct application), that it was expedient for all nations *who respected order, good government, morality, and religion*, to be friends. On this topic he expressed many general sentiments that were liberal and proper."

It surely did not require "any direct application" of his remarks by the king to enable Mr. Jay to comprehend, that the plain English of what his majesty meant was, that, in such a contest as that now pending with the revolutionary government of France, the United States should be on the side of England against France. On a

similar occasion, a few years before, the same monarch had made a like experiment on the known anti-Gallican feelings of a distinguished predecessor of Mr. Jay, to enlist him in English attachments and connections, when he received this memorable reply, "I must avow to your majesty that I have no attachments, but to my own country." Mr. Jay might, with a noble dignity and propriety, have followed the example and repeated the very language of Mr. Adams. But it suited neither his purposes nor his feelings. On the contrary, on the very evening of his reception, the 3d of July, 1794, he made haste to encourage the hopes and expectations held out by the king, by addressing a superserviceable note to Lord Grenville; telling him how much he was gratified "by the gracious reception with which he had been honored by their majesties, and the *magnanimity of the sentiments which the king condescended to express on the occasion*," which, if followed up by suitable action on both sides, "would lay a promising foundation for the establishment and duration of that friendship and cordiality between our two countries, which I pray God may speedily take place, and be perpetual."—See American State Papers, For. Rel., vol. 1. p. 477.

cable arrangement between the two governments had been concluded.

It was not, however, until the 7th day of March, 1795, three days after the adjournment of Congress, that the treaty itself, bearing date the 19th of November previous, reached the hands of the government. How this long delay should have occurred, was not explained. The closest secrecy still continued to be preserved with regard to the contents of the treaty. It was known only that the President had convoked the Senate for the 8th of June following, to exercise its constitutional function in giving its advice as to the ratification or rejection of the instrument. This further delay, in fixing the meeting of the Senate for so distant a day, seemed to indicate embarrassment and indecision in the mind of the President; and, added to the accounts which from time to time reached the United States from the other side of the Atlantic, as to certain stipulations of the treaty, viewed in a most unfavorable light as unequal and partial, both between the contracting parties themselves and towards the two leading belligerents of Europe, produced a high degree of agitation and excitement in the public mind.

The Senate met, according to their convocation, on the 8th of June; and remained in session, with closed doors, until the 26th of the month. Before entering upon their deliberations, a resolution was adopted, enjoining secrecy upon the members with regard to the contents of the treaty. This was in



vain protested against by a considerable number of senators, who considered it an indispensable aid to their own judgment, that they should have the opportunity of consulting the sense of their constituents as to the probable practical effects of certain provisions of the treaty. At length, after a long and dubious conflict of opinions, the Senate, by a bare constitutional majority of two-thirds, resolved to advise the President to ratify the treaty; with the exception of the twelfth article, which prescribed the conditions of a very restricted trade with the British West-India islands. This article, it was advised, should be suspended by an express additional stipulation to be annexed to the treaty, and new negotiations to be entered into without delay upon the subject of it.

Before their adjournment, the Senate rescinded the absolute injunction of secrecy, originally imposed with regard to the contents of the treaty; but at the same time enjoined upon members "not to authorize or allow any *copy* of the treaty, or of any article thereof." This persevering attempt to keep the minds of the people in the dark with regard to a matter involving the highest interests and honor of the nation, while garbled and imperfect statements of it were from day to day given in the newspapers, produced a courageous determination on the part of one of the senators of Virginia, Mr. Stevens Thompson Mason, to set at defiance a rule "more honored," as he believed, "in the breach than in the observance;" and, on the 30th day of

June, a genuine, unmutilated copy of the treaty, communicated by him for the purpose, was published in one of the gazettes of Philadelphia. It so happened, that the mind of the President was, at the same time, convinced of the propriety of an unreserved disclosure of the treaty to the public; and he had authorized the secretary of State to promise a copy of it to the press,<sup>1</sup> which was accordingly announced for the 1st day of July, but was anticipated by the appearance, the day before, of the copy furnished to another journal by Mr. Mason.

The public curiosity was now gratified by an opportunity of inspecting the mysterious document which had been so long the subject of vague conjectures and conflicting representations. But the knowledge of it, far from allaying, increased the unfavorable impressions with regard to it. It was a complex and elaborate web of twenty-nine articles, which would require a minute analysis thoroughly to unravel and adequately expose its artful inequalities, as well in its omissions as its provisions. We must content ourselves with a general outline, — sufficient, however, to show the radical injustice, unfairness, and bad faith towards an ancient and generous ally, which so strikingly marked the features of the arrangement.

The first ten articles related mainly to the questions which had arisen out of the non-execution of

<sup>1</sup> See statement of Mr. Randolph, secretary of State at the time, in his "Vindication," p. 19.

the treaty of peace. It was agreed, on the part of Great Britain, to surrender the posts which she had so long held within the limits of the United States, in contravention of the treaty of peace ; but this surrender was not to take place until the 1st day of June, 1796, reserving thereafter to British traders and their Indian allies the right of free ingress and egress, and of carrying on, within the limits of the United States, the traffic which had been hitherto abused to such pernicious purposes. This dangerous privilege was sought to be covered by a reciprocal right, of but little if any value to American citizens, to trade with the adjacent territories of Great Britain, — excepting, however, that large portion of them embraced within the limits of the Hudson-Bay Company ; while access was to be allowed to British traders through the territory of the United States, to the eastern banks of the Mississippi, with the privilege of an unrestricted navigation of that river. In general, British subjects were allowed freely “to navigate all the lakes, rivers, and waters of the United States, up to the highest ports of entry ;” while it was expressly declared, that “vessels of the United States were not to be admitted into the seaports, harbors, bays, or creeks of his majesty’s American dominions.”

With respect to a leading violation of the treaty of peace by Great Britain, in the removal of negroes from the places evacuated by her, which had been invariably made the subject of earnest remon-



strance and demand of indemnity on the part of the United States, and in all the previous discussions between the two governments urged as a claim of undeniable justice, no provision whatever was made for it; but it was coolly pretermitted and overruled by the negotiators, though Mr. Jay was expressly instructed, as we have seen, to insist upon it.

Although the American courts of justice were, and had long been, open to the unobstructed process of law for the recovery of debts contracted to British subjects before the war, a stipulation was agreed to by the American negotiator, binding the government of the United States to make compensation to British creditors for any *losses or damages* they may have sustained by the possible deterioration of their securities, in consequence of impediments interposed, at any time, by any of the States. But no compensation whatever was to be made to the United States, either for the property of their citizens removed in open violation of the treaty of peace, or for the *enormous* losses and damages sustained by them in consequence of the wanton destruction of the frontier posts, and the wasteful and destructive Indian war it had entailed. The whole measure of indemnity, on the side of the United States, was limited to such compensation as might be awarded to their citizens by a joint commission, for the illegal capture and condemnation of their vessels and cargoes, under the orders of the British government, "in cases where adequate compensation might not be obtained by the ordinary course

of judicial proceedings" in the tribunals of Great Britain.

The twelfth article of the treaty, which was rejected by the Senate, allowed citizens of the United States a limited trade with the British West Indies in vessels not above seventy tons burthen, in exchange for permission to British vessels, without limitation as to size and capacity, to export to and import from the United States all articles of either country; and upon the express condition that American vessels admitted to this limited trade "shall carry and land their cargoes in the United States only;" and that the United States will by law "prohibit and restrain American vessels from carrying any *molasses, sugar, coffee, cocoa, or cotton*, either from his majesty's islands or *from the United States*, to any part of the world except the United States."

The fifteenth article, contrary to all precedent, allowed to Great Britain, in the ports of the United States, the footing of the most favored nation, without exacting from her the price which may have been paid, or might hereafter be agreed to be paid, by other nations for the privileges accorded to them. Thus an effectual bar was created to all treaties of a special or peculiarly advantageous character to the United States which other nations might otherwise be disposed to conclude with them; for what nation would buy for *a price* a commercial stipulation which would *ipso facto, without price or equivalent*, become common to another, perhaps her rival in trade?

While this privileged footing was guaranteed, without condition, to Great Britain, she reserved to herself the right of retaliating the discriminating duties which had been established by the United States in favor of their own against *all* foreign navigation, from the very origin of their present Constitution, and which was deemed absolutely indispensable to its protection. To this reservation on the part of Great Britain was added an express agreement by the United States not to impose any new or additional tonnage duties on British vessels, nor to increase the existing difference between duties payable respectively on articles imported in British or American vessels.

In utter disregard of those principles of the modern law of nations which the United States had been laboring to establish, and which were already well nigh established by the general consent of Christendom, and which Mr. Jay was especially instructed to keep steadily in view, the seventeenth and eighteenth articles of the treaty negotiated by him yielded to Great Britain, *by express recognition*, the principle contended for by her alone in the existing war,—making enemies' property, on board of neutral vessels, lawful prize of war ; greatly enlarged the list of contraband, so as to subject to confiscation many articles, the produce of the United States, hitherto deemed and treated as lawful objects of neutral commerce ; and sanctioned by acquiescence the lawless pretension of the British government to seize grain, flour, breadstuffs, and provisions generally, laden on



neutral vessels bound to France, on condition of being paid their estimated value, together with the freight and demurrage of the vessels thus arbitrarily and vexatiously detained and turned aside from their original and lawful destination. These stipulations aimed, at one and the same time, a fatal blow against the neutral commerce of the United States, the interests of humanity itself in time of war, and the just claims of fair dealing and the protection of generally acknowledged principles due to our ancient ally, the people of France.

Though there was a formal and empty declaration in one of the articles of the treaty, that "nothing contained in it should be construed or operate against former and existing treaties with other sovereigns or states," yet it was in vain to deny that the practical effect of the treaty, in its general operation and several of its provisions, however disguised by specious and artful phraseology, was to work an entire revolution in the relations of the United States with France as they stood under the treaties of 1778, and, by new and one-sided regulations, to throw their collected weight against her in the struggle of life and death in which she was then engaged.<sup>1</sup>

Mr. Madison, in the calm retreat of his farm in

<sup>1</sup> See the correspondence between M. Adet and the secretary of State, in June and July, 1795, American State Papers, For. Rel., vol. I. pp. 594-596. While Mr. Randolph labored, by a chain of technical reasoning, to show that

the British treaty violated no *strict right* of France, he was compelled to admit, that, on the score of "hardship and injury to a friend," there was ground of complaint, which it would be his endeavor to obviate in a new negotiation.

Virginia, whither he had gone immediately on the adjournment of Congress, had his attention soon called to this ill-omened compact, and was at no loss to perceive in it at once the injustice, national discredit, and injury to the United States, with which it was fraught. In a letter of the 10th of August, 1795, to Chancellor Livingston of New York, in answer to one from that gentleman, he says, —

“Your gloomy picture of the treaty does not exceed my ideas of it. After yielding terms which would have been scorned by this country in the moment of its greatest embarrassment, and of Great Britain’s full enjoyment of peace and confidence, it adds to the ruinous bargain with that nation a disqualification to make a good one with any other.”

He here comments on the fifteenth article of the treaty, the nature of which we have already explained, and proceeds:—

“It must be perceived at once that this extraordinary stipulation would *monopolize* us to Great Britain, by precluding any material improvement of our existing treaties, or the hope of any new ones that would be of much advantage to us. That so insidious an article should have occurred to Lord Grenville’s jealousy of the United States, and his policy of barring their connection with other countries, and particularly the French republic, can surprise no one. The concurrence of the American envoy may not be so easily explained; but it seems

impossible to screen him from the most illiberal suspicions, without referring his conduct to the blindest partiality to the British nation and government, and the most vindictive sensations towards the French republic.<sup>1</sup> Indeed, the treaty, from one end to the other, must be regarded as a demonstration, that the party to which the envoy belongs, and of which he has been more the organ than of the United States, is a British party, systematically aiming at an exclusive connection with the British government, and ready to sacrifice to that object as well the dearest interests of our commerce as the most sacred dictates of national honor."

Soon after the letter from Chancellor Livingston, Mr. Madison received another from an able and distinguished friend in Pennsylvania, who had borne a leading part in the public discussions of the treaty,<sup>2</sup> and who desired to have the benefit of Mr. Madison's matured and enlightened opinions in support of his own. The answer of Mr. Madison is a

<sup>1</sup> Mr. Livingston, who was the neighbor and personal acquaintance of Mr. Jay, and moreover allied to him by family connections, had frankly stated, in his letter to Mr. Madison, the apprehensions he had always entertained from the strong anti-Gallican prejudices and violent party feelings he took with him on his mission.

"I had, indeed," he said, "little hope of Mr. Jay's rendering us any essential service. His hatred to France, and the violence with which he entered into the system of the Ministerialists, whose views

have long appeared to me such as I do not choose to explain, but which may be deduced from the treaty, gave me reason to apprehend a want of energy in stating our claims. But I own that our disgrace and humiliation have, in this instance, greatly exceeded my expectations."—July 6th, 1795.

<sup>2</sup> Alexander J. Dallas, Esq. Mr. Madison's answer here referred to, dated the 23d August, 1795, will be found in full, in the compilation of his writings by order of Congress, vol. II. pp. 46-59.



thorough and exhaustive examination of the whole subject, and displays, with peculiar lustre, the comprehensive knowledge and penetrating glance of the statesman, as well as the lofty spirit and keen sensibility of the patriot to the dignity and honor of his country. It will be read with the deepest interest by every diligent inquirer into the history of the past, — the great magazine of instruction for the future and the present. We can find room here for only the closing paragraphs, in which he sums up, with great force and eloquence, his conclusions against the treaty, and delivers, with a noble elevation and wisdom, the maxims which, in every such crisis, should govern the conduct of a young and magnanimous people: —

“A treaty thus unequal in its conditions, thus derogatory to our national rights, thus insidious in some of its objects, and thus alarming in its operation to the dearest interests of the United States in their commerce and navigation, is in its present form unworthy the voluntary acceptance of an independent people, and is not dictated to them by the circumstances in which Providence has kindly placed them. It is sincerely believed that such a treaty would not have been listened to at any former period, when Great Britain was most at her ease, and the United States without the respectability they now enjoy. To pretend that, however injurious the treaty may be, it ought to be submitted to in order to avoid the hostile resentment of Great Britain, which would be as impolitic as it

would be unjust on her part, is an artifice too contemptible to answer its purpose.

“ It will not easily be supposed, that a refusal to part with our rights without an equivalent will be made the pretext of a war upon us, — much less that such a pretext will be founded upon our refusal to mingle a sacrifice of our commerce and navigation with an adjustment of political differences. Nor is any evidence to be found, either in history or human nature, that nations are to be bribed out of a spirit of encroachment and aggression by humiliations which nourish their pride, or by concessions which extend their resources and power. To do justice to all nations; to seek it from them by peaceable means in preference to war; and to confide in this policy for avoiding that extremity, or for securing the blessing of Heaven, if it should be forced upon us, — is the only course of which the United States can never have reason to repent.”

While these discussions, private and public, in relation to the treaty were going on, it was not known what decision, if any, the President had come to with regard to it. His situation was a most delicate and embarrassing one. To refuse to ratify a treaty, which the Senate by a vote of twenty to ten had solemnly advised him to ratify, and which his cabinet was unanimously of opinion that he ought to ratify; and when many apprehended, or affected to apprehend, that his refusal to do so would seriously compromise the pacific relations of

the country, — was obviously a course full of grave responsibilities. On the other hand, it was impossible that a person of the President's rectitude of mind ; of his freedom from every political bias, foreign or domestic ; of his fidelity to every honorable engagement, — could really approve a treaty so unequal in its conditions, so inadequate to the just rights and expectations of the country, and so insidiously hostile to another power, with whom honor and interest alike required us to maintain unbroken our ancient relations of friendship and good understanding.

It has been gratuitously assumed, and constantly asserted by historical writers of the Federal school, that the President's objections to the treaty were few and inconsiderable. We have the most incontrovertible evidence that such was not the fact. On the contrary, his objections were weighty, and applied to almost every part of the treaty. After receiving the "observations" of Colonel Hamilton, containing a most elaborate defence of the treaty, he comments with great energy on the want of real reciprocity in the stipulations respecting the intercourse of trade between the United States and the adjacent provinces of Great Britain. "All this," he says, "looks very well on paper ; but I must question whether, in its operation, it will not work very much against us." <sup>1</sup>

He was exceedingly dissatisfied with the omis-

<sup>1</sup> Letter to Colonel Hamilton of 13th July, 1795, in Hamilton's Works, vol. vi. p. 17.



sion of any indemnity for the negroes removed by Great Britain in direct contravention of the treaty of peace. In a letter addressed to Mr. Jay by the secretary of State, while it was yet hoped the treaty had not been finally concluded, and written under the immediate "correction of the President," as is therein stated, the shallow sophistry by which Lord Grenville was permitted to escape from this manifest obligation was most thoroughly exposed. "British debts," it is there said, "are stipulated to be paid; and the States in which the mass of them lay depended for their payment principally on the culture of their soil by this species of labor. As property, the British government [being slaveholders] could not have been tenacious of negroes; and it may therefore be supposed, that, in this view, they were so indifferent as to be easily given up. . . . You must be too sensible of the anxiety of many parts of the United States upon this subject, to pass it over unnoticed. Permit me, therefore, to beg your attention to the foregoing ideas, since I have it greatly at heart that your negotiation may not be encumbered by any objection that may be anticipated."<sup>1</sup>

In the same communication of the secretary of State, which is not only shown on its own face to have been the expression of the President's personal opinions, but is moreover particularly called to the attention of the Minister in a private letter from

<sup>1</sup> Letter of 15th December, 1794, in *American State Papers*, For. Rel., vol. I. pp. 509-512.

the President himself,<sup>1</sup> the following passages occur, relative to the proposed stipulations on points of maritime law and the commercial intercourse of the two countries: "Neutral commerce, if it can be so called, had better be free, as much as possible, from *contraband*. But it is peculiarly important that *provisions* should be so freed."—"As the distinctions which now exist between foreign and our own vessels are really of moment to our trade, our merchants will see them relinquished with reluctance, unless there be some very obvious equivalent; and, if the stipulation extends to the removal of the distinction in the *duties on goods* brought to the United States in British bottoms, their reluctance will be so much the stronger." In a letter to the secretary of the 27th July, 1795,—and this, it must be remarked, was more than a month after the advice of the Senate to ratify,—the President says, "I have no time to add more than that the commercial part of the treaty, so far as my information goes, is generally disliked."<sup>2</sup>

But what particularly excited the misgivings and apprehensions of the President was the operation of the proposed British treaty on the existing relations of the United States with France under the treaties of 1778. In a letter to Colonel Hamilton of the 29th July, 1795,<sup>3</sup> he says, "The string which is most played upon, because it strikes with

<sup>1</sup> Dated 18th December, 1794.

— See Sparks's Washington, vol. xi. p. 5.

<sup>2</sup> Idem, p. 41.

<sup>3</sup> Hamilton's Works, vol. vi. pp. 25, 26.

most force the popular ear, is the violation, as it is termed, of our engagements with France ; or, in other words, the predilection shown by that instrument to Great Britain at the expense of the French nation. . . . *I predict much embarrassment to the government therefrom ;* and, in my opinion, too much pains cannot be taken by those who speak or write in favor of the treaty, to place this matter in its true light." To the secretary of State, in a letter dated two days later, he says, "What seems to have more weight than all the rest, and is accordingly pressed, is that this treaty is made with a design to oppress the French, in open violation of our treaty with that nation, and contrary, too, to every principle of gratitude and sound policy."<sup>1</sup>

The President is reported to have said, when he submitted the treaty to the consideration of the Senate, that, if they advised its ratification, he should feel himself bound to conform to that advice. Still, the various objections to it, which occurred to his reflections, pressed upon his mind with so much weight, that he held his final decision on the subject in reserve, for several days after the advice of the Senate was laid before him. During this interval, information was received that the British government, since the conclusion of the treaty, had renewed the order of the 8th of June, 1793, for the seizure of provisions on board neutral vessels destined to France. Though this information was not official, it was believed to be true, as it

<sup>1</sup> Sparks's Washington, vol. xi. pp. 50, 51.



turned out to be, and excited the liveliest indignation in the mind of the President, as a practical construction by the British government of the eighteenth article of the treaty negotiated with Mr. Jay. The President then determined that he would not ratify the treaty, so long as this order continued in existence, and authorized the secretary of State, Mr. Randolph, to announce his determination to Mr. Hammond, the British Minister.<sup>1</sup> In these views, the President was zealously sustained by the secretary of State; while the secretary of the treasury, the secretary of war, and the attorney-general, favored the *immediate* ratification of the treaty, in the manner recommended by the Senate, trusting

<sup>1</sup> The secretary of State, in executing the authority given him by the President, employed a good many *détours* of diplomatic phraseology, wishing not to commit the President more than was absolutely necessary at the time. When he reported his proceedings, the President said to him, "You might have informed Mr. Hammond, that I would *never* ratify, if the provision order was not removed out of the way." (Randolph's *Vindication*, p. 21.) Judge Marshall, in his *Life of Washington*, seems not to have been satisfied by the statements of Mr. Randolph, and says, "There is no *conclusive* testimony of the result of the President's reconsideration." In pronouncing this opinion, the chief-justice evidently followed the authority of Mr. Wolcott, in a letter addressed to him long after the transaction

(in 1806). — See Gibbs's *Memoirs*, &c., vol. i. pp. 241-246. But the account made up by Mr. Wolcott in 1806 is contradicted and discredited by a statement of his own, in a letter to Colonel Hamilton of the 30th July, 1795, written in the very midst of the transaction. "*The ratification of the President*," he says, "*has been connected with the repeal of some unknown order, respecting vessels bound with provisions to France. . . .* What must the British government think of the United States, when they find the treaty clogged with one condition by the Senate, another by the President, and no answer given, in a precise form, after forty days?" — See this letter of Wolcott, which ought to be *conclusive*, if any thing from him can be, in Hamilton's *Works*, vol. vi. p. 27; and Gibbs's *Memoirs*, vol. i. p. 220.

to the remonstrances, which should accompany the act of ratification, to obtain thereafter a repeal of the British order.

Such continued to be the state of the question, on the ratification of the treaty, in the mind of the President, until a very unexpected and extraordinary circumstance occurred, adding one more instance to the many in history to show how often the most important resolutions of governments and States are influenced by causes accidental and extrinsic. A despatch of the former French Minister, Fauchet, to his government, dated the 31st of October, 1794, had been picked up at sea; having been thrown overboard by a French privateer closely pursued by a British cruiser, and conveyed to the hands of Lord Grenville in London, by whom it was sent to the British Minister in this country, "to be used to the best advantage of his majesty's service." The despatch of the French Minister was written at the time of the insurrection in the western counties of Pennsylvania, and with great flippancy professed to render an account of frequent confidential conversations between himself and Mr. Randolph on the critical and divided state of the country; one party aiming, as alleged, at the establishment of despotism, the other striving to maintain the cause of liberty.

The writer speaks of the influence of Mr. Randolph with the "popular" or democratic societies; and also of the influence he had established over the mind of the President, whom it was attempted

to mislead into paths which, if followed, would conduct him to the loss of his popularity. In a previous despatch (No. 3), to which reference is made in this, Mr. Randolph is represented as assuring him, that "the President is the mortal enemy of England, and the friend of France;" and, finally, he speaks of "overtures" to him by Mr. Randolph, by means of which, "with some thousands of dollars, the republic [France] could have decided on the question of civil war or peace."

This despatch, if used with skill, it was thought, might be made instrumental in giving the wished-for direction to the mind of the President on the questions then pending between England and the United States. It was placed by the British Minister in the hands of Mr. Wolcott on the 28th of July, 1795. Two days after, this ready and ambidextrous go-between wrote to Colonel Hamilton, "I dare not write, and hardly dare to think, of what I know and believe of a certain character, whose situation gives him a decided influence. . . . Feel no concern, however; for I see a *clue* which will conduct us through every labyrinth, except that of war."<sup>1</sup> The despatch was immediately shown by him to his colleague, the secretary of war, and the following day to the attorney-general. It was agreed by them in conclave, that a letter should be immediately written to the President, who was then at Mount Vernon, requesting his return to Philadelphia. It was their opinion, we learn from a

<sup>1</sup> Hamilton's Works, vol. vi. p. 27; also p. 30.



well-informed and impartial source, that the despatch should be imparted to the President without delay, and *with the utmost secrecy*. Any open attempt to effect this end, they thought, might excite the suspicion of Mr. Randolph.<sup>1</sup>

In pursuance of this plan, the two secretaries, Wolcott and Pickering, called on Mr. Randolph, under the mask of friendship; and, with a refinement of dissimulation which would have done no discredit to a Tartuffe or an Iago, decoyed him to become an unconscious instrument in their hands in the plot laid for his destruction. By their request he addressed a letter to the President, urging his immediate return to Philadelphia; and, still further to quicken the movements of the President, the secretary of war himself wrote a private letter, entreating him "to return to the seat of government with all convenient speed, and in the mean time to decide on no important political matter, in whatever form it may be presented."<sup>2</sup> The President arrived in Philadelphia the evening of the 11th of August; and the intercepted despatch was the same evening privately put into his hands, every care being taken, for the present, to keep it from the knowledge of Mr. Randolph, lest explanations might frustrate the intended effect.

The following morning the cabinet met, and the question of the ratification of the treaty was immediately brought up for consideration. The President had read with profound and startled attention

<sup>1</sup> Sparks's Washington, vol. xi. p. 52.

<sup>2</sup> Idem, ibidem.

the despatch of Fauchet; and no one could doubt, that the effect of it, unexplained, would be to put an end to his confidence in Mr. Randolph, who had stood alone among his counsellors against the present ratification of the treaty, and also to weaken, for the moment at least, his sympathy and respect for the French government, through the disgust excited at the conduct of their agent. At the same time, he probably felt that the insinuation made by the French Minister of his "mortal hatred to England," and of the insincerity of his negotiations with that power, imposed upon him the necessity of vindicating his lofty character for good faith and fair dealing by prompt and final action on the treaty. Under the influence of these combined impressions, the President, still retaining his repugnance to the treaty, came to the conclusion at once to ratify it, as the least of the evils out of which his choice was to be made.

His decision to that effect was announced to the cabinet; and the formal ratification of the treaty was signed by him, and attested by Mr. Randolph as secretary of State, on the 18th of August, 1795. According to the programme previously arranged by the two secretaries, Messrs. Wolcott and Pickering, in whose hands was the whole conduct of this plot from its inception, the intercepted despatch of Fauchet was not communicated to Mr. Randolph, until all the formalities necessary for the technical completion of the ratification were finally consummated. When at length the despatch was made known to him, as

it was under circumstances of peculiar mortification, he denied with firmness every imputation of infidelity or dishonor seemingly implied in it; of which, indeed, he was acquitted by positive declarations afterwards made by the French Minister himself, and published to the world. In the mean while, with a feeling of wounded and indignant pride, he promptly resigned the office of secretary of State, and appealed to the candor and justice of his countrymen, in a detailed and elaborate vindication of his conduct.

With what reluctance the President gave his final sanction to the treaty, is shown by repeated declarations, even after his ratification of it, to his confidential friends. To one of these he wrote, "The treaty with Great Britain is not yet ratified on her part. After every consideration I could bestow on it (and *entertaining very serious doubts of the propriety of doing so, on account of the provision order*), it has been ratified by me. What has been or will be done by the government of Great Britain relative to it, is not now, and probably will not be, known by the meeting of Congress."<sup>1</sup> Writing to the same person a short time before, and referring as well to the provision order as to the insulting attempt of a British naval officer to intercept, within the marine jurisdictional limits of the United States, a French vessel, on which Monsieur Fauchet was embarked on his return to France, he says, "By

<sup>1</sup> Letter of 29th October, 1795, to Colonel Hamilton, in *Hamilton's Works*, vol. vi. p. 54.



these high-handed measures of that government, and the outrageous and insulting conduct of its officers, it would seem next to impossible to keep peace between the United States and Great Britain.”<sup>1</sup>

With a sort of prophetic anticipation of a future, inevitable conflict with that haughty power, in a letter to another friend then abroad, and intended for the eye of Lord Grenville himself, he says in a strain of noble patriotism, and with an exulting pride in the future strength and glory of his country, “Sure I am, if this country is preserved in tranquillity twenty years longer, it may bid defiance in a just cause to any power whatever, — such, in that time, will be its population, wealth, and resources.”<sup>2</sup> To gain time for this silent, national growth and development, in order to be better prepared for the conflict he foresaw, was perhaps not among the least of his considerations for finally acquiescing in a one-sided arrangement, to which he felt so strong a repugnance.<sup>3</sup> Here, for the

<sup>1</sup> Letter to same, 31st August, 1795, Hamilton's Works, vol. vi. p. 33.

<sup>2</sup> To Gouverneur Morris, 22d December, 1795, Sparks's Washington, vol. xi. pp. 99–105. — See the letter of G. Morris, and the notes exchanged between him and Lord Grenville, which led to the reply of General Washington here referred to, in Life and Correspondence of G. Morris, vol. iii. pp. 53–55.

<sup>3</sup> This motive of policy was

afterwards expressly avowed by him in the farewell address. In that solemn testamentary paper he says, “*With me*, a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions, and to progress, without interruption, to that degree of strength and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.”

present, we leave this painful, and to many minds humiliating, subject. It will meet us again in another scene, — the deliberations of Congress on the legislative measures for carrying the treaty into effect, — when we shall have occasion to speak of the course of Mr. Madison with regard to it, in his official, representative character.

## CHAPTER LII.

Relations with France — Arrival of Mr. Monroe in Paris — Reception by the Convention — His Successful Negotiations with the French Government in the Outset — Suddenly arrested by News of Jay's Treaty with England — Embarrassments of his Situation — Correspondence with Mr. Jay — Resignation of Office of Secretary of State by Randolph, and Death of Attorney-General Bradford, create Necessity for New Ministerial Arrangements — Mortifying Failure of the President in endeavor to bring First-rate Characters into the Cabinet — Causes of the Failure — The President consults Colonel Hamilton in the midst of his Embarrassments — Coolly answered that he must be content with "Second-rate Characters" — Finally driven to the Necessity of making Timothy Pickering Secretary of State; James McHenry, of Maryland, Secretary of War; and Charles Lee, of Virginia, Attorney-General — Disadvantages under which the President was placed by Degeneracy in the Character of his Cabinet — Meeting of the Fourth Congress — Dayton, of New Jersey, elected Speaker of the House of Representatives — President's Speech — Address reported by Majority of Committee objected to, on account of Indirect Approval of British Treaty — Report re-committed, and Modification proposed by Mr. Madison unanimously agreed to by the House — Discourse of the New French Minister, Adet, on the Presentation of the Colors of the French Republic to the President — Cordially and enthusiastically responded to by the President — President's Answer extremely distasteful to the Federal Party — British Treaty laid before both Houses of Congress — Resolution of Mr. Livingston calling upon the President for Instructions to the Minister and his Correspondence with the Government — Amendment, reserving Larger Discretion to the President, moved by Mr. Madison — Federalists, from Motives of Party Strategy, combine with Minority of Republicans, and defeat Amendment — General Discussion on the Original Resolu-



tion, involving the respective Constitutional Limits of the Treaty-making and Legislative Powers — Discussion participated in by all the Leading Members of both Parties — Distinguished Part in it borne by Mr. Madison — Resolution finally carried by a Vote of Sixty-two to Thirty-seven — President, by Advice of his Cabinet, refuses Compliance, and, in a Message drawn by them, assigns the Reasons of his Non-compliance — Message taken up for Consideration — Answered with Great Ability, and a Respectful Delicacy towards the President, by Mr. Madison — Question left to the Decision of the House upon the Arguments of the Message, and Mr. Madison's Reply — Resolution in Opposition to the Doctrines of the Message, and affirming the Constitutional Powers of the Legislature, passed by a Large Majority — Resolution brought forward by the Friends of the Treaty for carrying it into Immediate Effect — Outline of Mr. Madison's Able and Searching Speech in Opposition to it — Debate becomes general — Celebrated Oratorical Effort of Mr. Ames in Support of the Resolution — On taking Question in Committee of the Whole, an Equal Vote of Forty-nine to Forty-nine on Either Side — Chairman of Committee, not approving the Resolution, decides in favor of its going to the House, to be there amended — Carried in the House by a Vote of Fifty-one to Forty-eight, several Members who voted in the Affirmative declaring their decided Disapprobation of the Treaty — Extreme Excitement of the Federalists under Apprehension of losing their Favorite Measure — Revolutionary Measures, in that event, meditated by them — *Coup d'État* concocted for the Occasion by Colonel Hamilton, and strongly urged upon his Political Friends in Congress.

WHILE the negotiations with Great Britain, of which we have given an account in the preceding chapter, were going forward, the relations of the United States with France were in an embroiled condition, which called for all the vigilance, promptitude, and tact of the new minister, Mr. Monroe. He arrived in Paris on the 2d day of August, 1794, two days after the downfall of Robespierre, when that blood-stained monster, with his colleagues

Couthon and St. Just, and their daring associates, were conducted in their turn to the same guillotine they had so long kept in ceaseless activity for the destruction of unnumbered victims. This event, in the interests of humanity and France, put a term to those cruel and sanguinary atrocities which had hitherto marked the course of her internal convulsions. The nation once more breathed with freedom; and from that moment a system of salutary re-action was commenced and pursued by the National Convention.

The moment seemed a propitious one for the re-inauguration of the diplomatic relations of the United States with their former ally and friend; and yet there were serious obstacles to be overcome. The predecessor of Mr. Monroe, Mr. Morris, had lost entirely, if he ever possessed, the confidence and good feelings of the republican authorities of France; and, under his auspices, the commerce and citizens of the United States had been subjected to many vexations and annoyances. There was also still lingering in the executive councils of France, particularly with some members of the Committee of Public Safety, a feeling of alienation and distrust towards the United States, fostered by the representations and conduct of their agents in America, as well as provoked by the offensive demeanor and sentiments of the American Minister in France.

Under these circumstances, Mr. Monroe, finding the commissary of foreign affairs dilatory in his movements, took the bold step of addressing him-

self for his reception directly to the National Convention, accompanying the application with a frank and cordial expression of the friendly sentiment of the government and people of the United States for the French republic. He was received the following day with the utmost enthusiasm in the bosom of the Convention; his address on the occasion was answered, with an unbounded effusion of feeling, by the president of the body, Merlin de Douai; and the flags of the two countries were a few days afterwards intertwined in the hall of the Assembly. Mr. Monroe availed himself of these favorable impressions to enter at once upon the business of his mission.

In a short time he obtained not only a revocation of the decrees by which the commerce of the United States had been interrupted, and a liberal measure of redress for the wrongs of our citizens,<sup>1</sup> but assurances of the powerful aid of the good offices of the republic in the settlement of our national difficulties with Spain and the Barbary powers. In short, to use the language of Mr. Monroe, "Such was now our situation with the French republic, and with other powers so far as depended on the French republic, that there was but one point upon which we had cause to feel or express any solicitude, — which was that it might not vary."<sup>2</sup>

<sup>1</sup> The acts of reparation here referred to were made by two *arrêts* of the Committee of Public Safety, — the first of 18th November, 1794, and the other of the 4th of January,

1795, — in the French Republican calendar, 14 Nivose, l'an 3. — See Monroe's View, pp. 95, 106.

<sup>2</sup> Monroe's View, p. xvii.



Just at this moment, intelligence reached France that Mr. Jay had concluded a treaty with Great Britain, containing stipulations unfriendly and injurious to the rights and interests of the French nation. The first annunciation of a special mission from the United States to England, committed to the hands of one of Mr. Jay's known political sentiments, and long-cherished antipathy to France, excited feelings of uneasiness in the minds of the French government. These Mr. Monroe had allayed for a time, by assuring them, in the language of his instructions, that "the motives of Mr. Jay's mission were to obtain immediate compensation for our plundered property and restitution of the western posts;" and further, that "he was positively *forbidden* to weaken the engagements between the United States and France."

The Committee of Public Safety at length, on the 27th of December, 1794, addressed a formal note to Mr. Monroe, informing him of the report which had reached them, and desiring to be furnished with the treaty, as "the only means of enabling them to appreciate" the representations that had been made to them. Mr. Monroe immediately and frankly replied that he had received a letter from Mr. Jay, informing him that he had accomplished the principal object of his mission, by concluding a treaty with England on the 19th of November last, which, containing an express declaration that "nothing therein should be construed or operate contrary to existing treaties between the United States and

other powers," ought not to give uneasiness to France or any other power. Mr. Monroe added that he was altogether ignorant of the particular stipulations of the treaty, but assured the committee, that, "as soon as he was informed thereof, he would communicate the same to them."

Mr. Jay determined not to communicate the treaty to enable Mr. Monroe to satisfy the inquiries of the French government; but in a letter, 28th November, 1794, intimated that he would send him the "*principal heads of it confidentially*." In answer to this letter, Mr. Monroe felt it his duty to inform Mr. Jay, that nothing short of the text of the treaty, to which the French government thought itself entitled as an ancient and faithful ally, would now allay its excited jealousies; and convinced as he had been by the repeated assurances of Mr. Jay, that there was nothing in it to which any just exception could be taken by the authorities of France, he submitted to his consideration whether it would not be best to afford them the opportunity of seeing and calmly considering it for themselves.<sup>1</sup> In the correspondence which ensued, Mr. Jay discovered great soreness and irritability. He finally fell upon the expedient of proffering an *oral* communication of the contents of the treaty to Mr. Monroe, through his secretary of legation, Colonel Trumbull, but clogged with such conditions as made it evidently inexpedient and improper for Mr. Monroe to receive

<sup>1</sup> See the letter of Mr. Monroe, View, Appendix, pp. 113, 114, 143- and Mr. Jay's reply, in Monroe's 145.

it.<sup>1</sup> The same communication having been made by Colonel Trumbull to an American citizen of respectability in Paris, the substance of it was reduced by the latter to writing; and in that form, upon his responsibility, communicated to Mr. Monroe, by whom it was sent to the Committee of Public Safety. It failed, as may well be supposed, to have any effect.

In an interview, which took place about this time, between Mr. Monroe and the diplomatic section of the Committee of Safety, they protested with great energy and warmth against the withholding, whether by the wilful refusal of Mr. Jay alone or with the sanction and approval of his government, of the treaty lately concluded with Great Britain under circumstances of so interesting and peculiar a character.

“It could not otherwise than excite surprise in the councils of the government,” they said, “when it was observed, that, in the height of their war with the coalesced powers, and with England in particular, America had stepped forward and made a treaty with that power, the contents of which were so carefully and strictly withheld from the knowledge of the French government. For, if the treaty were not injurious to France, why was it withheld from her? Was it prudent for one ally to act in such a manner with regard to another, and especially under the present circumstances and at

<sup>1</sup> Monroe's View, p. xx., and his despatch of 14th April, 1795, Appendix, pp. 145-148. — See also

Mr. Jay's letter by Colonel Trumbull to Mr. Monroe, idem, Appendix, pp. 154, 155.



the present time, as to excite suspicions of the kind in question?"

Mr. Monroe repeated, as he had often before done, his persuasion, derived, doubtless, from the assurances of Mr. Jay, that the treaty contained nothing which ought to give uneasiness to France; and if it did, and especially if it weakened in any manner our connection with her, it would not be approved in America.<sup>1</sup>

Nothing further was known of the treaty in France until the middle of August, 1795, when the treaty itself, as published in the American newspapers, reached France. "The possession of it," says Mr. Monroe, "enabled the French government to judge for itself upon all the points which it involved. Nor was the effect it produced an equivocal one; for there did not appear to me to be any description of persons, not in the interest of the coalesced powers, who did not openly and severely censure it."<sup>2</sup> Still the treaty had not yet been ratified by the President, and it was hoped it would not be. When at length news was received of the ratification by the President, a further hope remained, that, in the face of the immense demonstration of the popular disapprobation of the treaty in the United States, Congress would not pass the legislative measures for carrying it into execution. Thus was Mr. Monroe, notwithstanding the lowering cloud which impended over the harmony of the

<sup>1</sup> Despatch of 24th April, 1795, in *Monroe's View*, App., p. 147.

<sup>2</sup> *Monroe's View*, &c., p. xxxiv.

two republics, while yet a lingering ray of hope irradiated the gloom, enabled to maintain for a season the friendly footing on which, by his frankness and courage, he had replaced their ancient relations, political as well as commercial. What measures were adopted by the French government after the final action of both the legislative and executive departments of the United States on the treaty was known in France, as well as the course pursued by the new French Minister, Monsieur Adet, in the United States, will appear in the further progress of this narrative.

We must now advert to some occurrences, not without interest, in the domestic history of the country. A few days after the resignation of the office of secretary of State by Mr. Randolph, the attorney-general, Mr. Bradford, died. Two vacancies were thus produced in the cabinet; and the President most earnestly sought to bring into the vacant places men enjoying the public confidence, and eminent for their virtues and talents. The first place was successively offered to Mr. Patterson of New Jersey, then associate-justice of the Supreme Court of the United States; Governor Johnson, of Maryland; General Charles Cotesworth Pinckney, of South Carolina; Patrick Henry, of Virginia; and Rufus King, of New York. By each of them it was declined. The appointment of attorney-general was offered to John Marshall of Virginia, future chief-justice of the United States; and, on his declining it, to Colonel Innis of the same State,

distinguished for his eloquence and ability, as well as for his private and public virtues; and by him also it was declined.

No other alternative now remaining to the President, after his repeated and mortifying failures to fill the first office with qualifications and a character of suitable elevation, he at last conferred it on the secretary of war, Mr. Pickering, who, upon the resignation of Mr. Randolph, had been temporarily assigned to its ordinary routine duties until a permanent appointment could be made. The selection of this gentleman was evidently a *pis aller*, not made until the office had been vacant for three months, and the numerous efforts to fill it suitably had entirely failed. The department of war now becoming vacant also, it was successively offered to Colonel Carrington of Virginia, General Pinckney of South Carolina, and Governor Howard of Maryland, and by all of them declined. So uniform and persevering a refusal of the highest offices of the government by the ten or twelve distinguished gentlemen to whom they were successively offered by the President, seems to admit of but one explanation, — an insuperable repugnance felt by them to an association with the two remaining members of the cabinet as their colleagues in office.

In the midst of these anxious efforts of the President to fill the vacant places in his cabinet with men of high characters, congenial with his own and worthy of the public confidence, he wrote to Colonel Hamilton, informing him of the difficulties he had



met with, and asking the suggestion of any eligible names which might have occurred to him, and received the following very cool, if not very encouraging or edifying, reply: —

“A first-rate character is not attainable. A second-rate must be taken, with good dispositions and barely decent qualifications. I wish I could throw more light. It is a sad omen for the government.”

The occurrence of this sad omen for the government — which Colonel Hamilton affected to lament, while it gave him a most important control over public measures, through his pliant tools in the cabinet — was mainly the result, as we have already shown,<sup>1</sup> of his own conduct in declining to resign the office of secretary of the treasury at the time Mr. Jefferson resigned that of secretary of State; and thus obstructing the President's freedom of action in the reconstruction of his cabinet on its original principle of a representation in the executive councils of the different shades of political opinion in the nation, retaining in his own hands, as the *responsible* head of the government, the ultimate decision of every question, after impartially weighing all the arguments and considerations which should be brought forward on the one side or the other. For a chief magistrate of General Washington's antecedents declaring himself, as he did to the last, to be of “no party,” but anxiously seeking truth and the welfare of the nation through every channel of information and advice accessible

<sup>1</sup> Chap. XLVIII. ante, pp. 378–382. — See also chap. LI. pp. 487–490.

to him,<sup>1</sup> this was evidently the position most suitable to the dignity of his character and his conscientious sense of duty, as well as most consistent with the true theory of the Constitution.

The President, failing in his endeavors to fill the offices of attorney-general and secretary of war, as well as that of secretary of State, with the high grade of character and qualifications he desired, conferred at last the appointment of attorney-general on Mr. Charles Lee of Virginia, whose local reputation even, for professional ability, was hardly second-rate, but in whose honor and fidelity the President could repose full confidence. A most significant passage occurs in his letter tendering the appointment to Mr. Lee. "I should be much gratified," he said, "in having a confidential officer about me *on whom I could rely*."<sup>2</sup> Pickering and Wolcott were then in the cabinet; but there could be no real or cordial trust between men of their little views and mousing politics, and the large and lofty spirit of Washington, which they seemed incapable even of comprehending.

Soon after the office of attorney-general was filled by the appointment of Mr. Lee, that of secretary at war was tendered to and accepted by Mr. James McHenry of Maryland. This gentleman had been, for a short time, member of the military family of General Washington during the war of the Revo-

<sup>1</sup> See his letter to Timothy Pickering, of 27th July, 1795, in Sparks's Washington, vol. xi. p. 40; also

letter to Mr. Jefferson, of 6th July, 1796, *idem*, p. 139.

<sup>2</sup> Sparks's Washington, vol. xi. pp. 92, 93.

lution; was also for a short time member of the Congress of the Confederation; and finally one of the delegates from the State of Maryland to the Federal convention. In none of these situations did he acquire the slightest distinction. Colonel Hamilton, notwithstanding their thorough agreement and close union in politics, said of him in the letter to the President to which we have already referred, "McHenry will bring no strength to the administration; *but his views are good.*" And so, according to Colonel Hamilton's standard, were the views of all the members of this dwarfed cabinet imposed upon the President by an extraordinary combination of contrivance and ill-fortune. They were all thorough *Hamiltonian* Federalists. Mr. Madison, in communicating to Mr. Jefferson the last of these appointments, — that of McHenry, — asked with truthful significance, "Through what official interstice can a ray of republican truth now penetrate to the President?"<sup>1</sup>

The disadvantages, as well as mortifications, of the situation in which the President was thus placed were keenly felt by him. A great philosopher,<sup>2</sup> profoundly versed in affairs of state as well as in every branch of human wisdom, has remarked that it is no derogation to the sufficiency of the wisest princes to feel the need of able and honest counsellors. He adds with reverence, that "God himself is not without, but hath made it one of the names of his blessed Son, the Counsellor." Wash-

<sup>1</sup> Letter of 7th February, 1796.

<sup>2</sup> Bacon.



ington was now surrounded with counsellors who not only gave no light themselves, but assiduously shut out light from every other quarter. If therefore, in any instance during the remaining period of his administration, he shall appear to have fallen into error, candor will know where to visit the blame of the aberration; while the general rectitude and wisdom of his measures bear testimony to the extraordinary degree in which his firm and clear understanding sufficed to itself, and triumphed, for the most part, over the disadvantages of his external situation.

The time was now at hand for the first meeting of the Fourth Congress. The elections to this Congress, as to the preceding, had given rise to animated contests in every part of the Union where parties were nearly balanced. There were changes, both individual and political, in the representation of the several States, but not such as to affect in any essential degree the relative strength of parties as they stood in the last Congress. The Republicans still held the majority, though not a large one, in the House of Representatives. Their numerical strength in that branch was said to be fifty-six, and that of their opponents forty-nine.<sup>1</sup>

Mr. Dexter had lost his election in Massachusetts, and Mr. Fitzsimmons his in Pennsylvania; Mr. Edward Livingston, a new and young member of much promise, was returned from New York; Mr. Gallatin, from Pennsylvania; and Mr. Robert

<sup>1</sup> Ames's Life and Correspondence, vol. I. p. 180.

Goodloe Harper, from South Carolina. In the delegation of Virginia, the only changes of any note were in the substitution of Mr. Richard Brent in the place of Mr. Richard Bland Lee, and of Colonel Samuel Jordan Cabell in the place of Colonel Francis Walker. Mr. Madison would gladly have declined a re-election. After twenty years of arduous and uninterrupted service in the public councils, he would now, especially since his recent marriage, have been most happy to exchange the turmoil and excitement of the parliamentary arena for the quiet and repose of domestic life. But his political friends would not allow it.

In the winter preceding the election, Mr. Jefferson wrote to him, "The changes in your House, I see, are going on; and even the Augean herd over your head is slowly purging off its impurities. Hold on, then, my dear friend, that we may not shipwreck in the mean while. I do not see in the minds of those with whom I converse a greater affliction than the fear of your retirement. But this must not be, unless to a more splendid and efficacious post. There I should rejoice to see you, — I hope I may say, shall rejoice to see you." The perspective of future, and even the highest, political honors had no influence on the unambitious mind of Mr. Madison; for in his answer he turned aside from it with prompt and unaffected repugnance.<sup>1</sup> But he felt he owed much to con-

<sup>1</sup> See his letter of 23d March, 1795, in Congressional compilation of his Writings, vol. II. p. 38.

stituents who had sustained him, with unwavering confidence, through some of the severest trials of his public life ; and, though longing for retreat, he was unwilling to dissolve his connection with them abruptly. He consented, therefore, to serve for yet one more term of representative duty.

Congress commenced its session on Monday, the 7th day of December, 1795. The first act of the House of Representatives was the election of a speaker. The choice, owing to the diversion of some Republican votes, fell on Mr. Jonathan Dayton of New Jersey, who, though generally classed with the Federal party, had on several important questions during the last Congress, especially those involving the relations with Great Britain, acted with the Republicans. On the following day, the President delivered his speech to the two Houses assembled in the Representative chamber.

The speech of the President began by announcing the conclusion of a treaty with the North-western Indians, the friendly accommodation of our difficulties with the Barbary powers, and the prospect of an early adjustment of our differences with Spain. It simply referred to the fact of a treaty having been negotiated with Great Britain, which, in pursuance of the advice of the Senate, and "of the best judgment he was able to form of the public interest, after full and mature deliberation," he had ratified ; but no information had yet been received of its ratification on the part of Great Britain. When received, the result would be immediately



laid before Congress. This topic was evidently approached with great tenderness and caution, and only in connection with a general summing-up of the condition of the foreign relations of the country. “*If*,” it was said, “by prudence and moderation on every side, the extinguishment of *all* the sources of external discord, which have heretofore menaced our tranquillity, on terms consistent with our national rights and honor, shall be the happy result, how firm and precious a foundation will have been laid for accelerating, maturing, and establishing the prosperity of our country!”

The speech, as usual, was referred to a committee to prepare an address to the President; and Mr. Madison, as usual, was made chairman, — Mr. Sedgwick of Massachusetts, and Mr. Sitgreaves of Pennsylvania, being associated with him upon the committee. These two members of the committee were favorers of the British treaty, and were anxious to introduce into the address a clause indicating approbation of it; which, knowing as they did how unacceptable the treaty was to a majority of the House, they sought to effect indirectly, by declaring the “*undiminished* confidence of his fellow-citizens in the President,” and the benefits of “an unparalleled spectacle of national happiness derived from his zealous and successful labors in their service.” This clause did not and could not meet with the concurrence of Mr. Madison, as asserting a fact which it was impossible to reconcile with the actual and known state of public opinion in the country.

Opposition was made to the clause when the address was reported to the House ; and it was re-committed to the committee which brought it in, enlarged by the addition of two more members. On the following day, Mr. Madison reported a modification of the clause, which, in lieu of the assertion of an “*undiminished* confidence of his fellow-citizens in the President,” paid the following glowing and affectionate tribute to his exalted character and merits, unmixed with any debatable matter of mere party ascription : —

“In contemplating that spectacle of national happiness which our country exhibits, and of which you, sir, have been pleased to make an interesting summary, permit us to acknowledge and declare the very great share which your zealous and faithful services have contributed to it, and to express the affectionate attachment which we feel for your character.”

Mr. Madison, in using this language in the name of the representatives of the people, only gave expression to his own long-felt and deeply cherished sentiments towards the President. The address, as thus modified, was at once and unanimously adopted.

With respect to the British treaty, there seems to be no doubt that the sentiments and convictions of a considerable majority of the House were against it. Mr. Madison, in a letter of the 13th December, 1795, to Mr. Jefferson, says, “There is pretty certainly a great majority against the treaty on its

merits." In a letter to Mr. Monroe of the 20th of the same month, he repeats, "There is a clear majority who disapprove the treaty." A week later, he writes, —

"The silence of the address as to the treaty was an accommodation to the wishes of a few, who preferred taking it up by itself afterwards. These individuals have not shown as much forwardness as was expected; and owing to that cause, and to the account of an exchange of ratifications, and the momentary expectation of the treaty, nothing is yet done on the subject. The situation is truly perplexing. It is clear that a majority, if brought up to the merits of the treaty, are against it. But as the treaty is not regularly before the House, and an application to the President brings him personally into the question, with some plausible objections to the measure, there is great danger that enough will fly off to leave the opponents of the treaty in a minority."

In consequence of these differences of opinion as to the *mode* of reaching the subject among the opponents of the treaty, it was at last agreed to postpone any action in relation to it until the treaty should be regularly before the House upon a communication of the executive, when intelligence of the exchange of ratifications should be received from England. In the mean time, a proceeding of a very interesting and imposing character took place, in which the President was called to bear the chief part, and which drew from him a manly



and unreserved expression of his sentiments towards France and the great cause in which she was engaged ; showing that, by whatsoever motives others might be, and were supposed to be, influenced in their support of the British treaty, neither unfriendliness to France or her struggles, nor subserviency to the views of England, found any place in his bosom.

A few months after the reception of Mr. Monroe as Minister of the United States in France, the Committee of Public Safety adopted a solemn address to the representatives of the United States in Congress assembled, testifying, in the most ardent terms, their attachment to America and American institutions, and their vows and wishes for a perpetual friendship between the two republics. The Convention itself decreed, that the national colors of France should be presented to the United States in token of these fraternal sentiments. Monsieur Adet, the new French Minister, was charged with the presentation of both the address and the flag ; and, on a communication received from him, the President appointed, for the ceremony of presentation, the first day of the new year, as being “ a day of general joy and congratulations.”

The Minister’s discourse on the occasion, in harmony with the spirit which marked the proceedings of his government, expressed, in the fervid strain of their national eloquence, the attachment of France to the United States, and her desire “ to draw closer

the ties formed in the battle-fields of America, under the auspices of Victory over the ruins of Tyranny." The President, in his response, warmly and eloquently avowed his sympathy with the struggles of the French people in the cause of liberty, and his unbounded admiration of their wonderful achievements in the contest.

"Born, sir," said he, "in a land of liberty; having early learned its value; having engaged in a perilous conflict to defend it; having, in a word, devoted the best years of my life to secure its permanent establishment in my own country, my anxious recollections, my sympathetic feelings, and my best wishes are irresistibly excited, whensoever, in any country, I see an oppressed people unfurl the banner of freedom. But, above all, the events of the French revolution have produced the deepest solicitude, as well as the highest admiration. To call your nation brave, were to pronounce but common praise. Wonderful people! ages to come will read with astonishment your brilliant exploits."

He then adverted, in glowing and exultant language, to the recent establishment in France of a more balanced and stable form of government by the Directorial Constitution of 1795.

"I rejoice that the period of your toils and immense sacrifices is approaching. I rejoice that the interesting revolutionary movements of so many years have issued in the formation of a constitution, designed to give permanency to the great object for which you have contended. I rejoice,

that liberty, which you have so long embraced with enthusiasm, — liberty of which you have been the invincible defenders, — now finds an asylum in the bosom of a regularly organized government; a government which, being formed to secure the happiness of the French people, corresponds with the ardent wishes of my heart, while it gratifies the pride of every citizen of the United States by its resemblance to their own. On these glorious events accept, sir, my sincere congratulations.”

The first day that Congress was in session after these proceedings took place, the President sent a message to each House, communicating copies of the address of the Committee of Public Safety, and of the discourse of the French Minister, with his answer to it. The manly and outspoken response of the President was received with enthusiasm and delight by the Republican members, as it was by the great body of the nation. In the House, Mr. Giles, of Virginia, offered a resolution in accordance with it; and in the Senate a similar resolution was offered by Mr. Tazewell, one of the Virginia senators. These resolutions (that of Mr. Tazewell in the Senate, after undergoing an amendment moved by Mr. Cabot, of Massachusetts, and warmly sustained by his colleague, Mr. Strong, and Mr. Ellsworth of Connecticut) met with a general and formal concurrence in both Houses. It was well known, however, that they were not assented to cordially by the Federal members, to whom the undisguised declaration of the President's friendly



sentiments to France, in his answer to the French Minister, was exceedingly unpalatable, though they deemed it necessary to suppress any open dissent from it. Mr. Madison, writing shortly afterwards to Mr. Monroe, says, "You will be pleased, and perhaps surprised, at the scene produced by the French flag. The harangue of the President must grate the British party; but they are cunning enough to be silent."

The dread of encountering the President's popularity, and the electrical influence of the noble and generous sentiments expressed by him, subdued the Federal party into a politic silence at the time. But a revelation now made informs us that their great political chieftain, Colonel Hamilton, "wholly disapproved and deeply regretted" the President's answer, both in *form* and *substance*, and considered it "as placing the Federal party in a defile, from which they could not extricate themselves with honor."<sup>1</sup> The absolute dominion which that chieftain exercised over his political followers does not permit a doubt that his opinions were also the opinions of his party. So much the greater honor to Washington for his bold and manly avowal of sentiments honestly entertained by him, and just and right in themselves, however distasteful to his professed adherents,—sentiments due to a nation, our powerful and magnanimous ally in the hour of need; suitable to the head of a vigorous and rising republic; congenial with the spirit of American

<sup>1</sup> See Hamilton's Hist. Am. Rep., vol. vi. pp. 330-332.

freedom and independence ; and called forth by a most interesting and august occasion in the history of the country.

In the latter part of February, the President received official intelligence of the exchange of ratifications of the British treaty ; and, on the last day of the month, issued his proclamation, in the usual form, announcing its final consummation. On the following day — the 1st of March, 1796 — he communicated to each House a copy of the treaty. In the House of Representatives, an order was immediately taken to refer the President's communication and the treaty to a Committee of the Whole on the state of the Union. When, on the 7th day of March, the subject was taken up in Committee of the Whole, Mr. Livingston of New York moved a resolution, requesting the President to communicate to the House a copy of the Instructions to the Minister who negotiated the treaty, together with the correspondence and other documents relative to it, "*excepting* such of said papers as *any existing negotiation* may render improper to be disclosed."

Mr. Madison, in a spirit of greater delicacy to the President and his constitutional functions, proposed to make the saving clause in the resolution yet broader, by excepting "so much of said papers as, *in the judgment of the President*, it may not be consistent with the interests of the United States at this time to disclose." Strange to say, the proposed amendment of Mr. Madison was voted against by the whole treaty party, on the ground, which

some of them had the shamelessness to avow, that it was expedient, for political reasons, to keep the resolution in as objectionable a form as possible. A small number of the Republicans, who adhered to the narrower exception proposed by Mr. Livingston, being thus re-enforced by the whole host of the Federalists, Mr. Madison's amendment was lost by a vote of forty-seven to thirty-seven; though its intrinsic fitness and propriety were not to be denied, and have been since vindicated by the invariable usage of Congress in similar cases.<sup>1</sup>

A general discussion then ensued on the resolution of Mr. Livingston, which was opposed with great vehemence by the leaders of the Federal party, as a bold and factious attempt to encroach on the constitutional prerogatives of the President and Senate. The Constitution, it was said, vests an unlimited power of making treaties exclusively in the President and two-thirds of the Senate; and also declares treaties, when so made, to be, with the Constitution and laws of the United States, "the supreme law of the land." Congress, therefore, has nothing to do with the considerations which may have led to the conclusion of a treaty, but are bound, by a blind constitutional necessity, to provide suitable measures for its execution, when

<sup>1</sup> "This accommodating amendment," says Mr. Madison in a letter of 18th April, 1796, "was opposed by the whole treaty party, who, being joined by the warmer men on the other side, succeeded in rejecting it." For the motives of the Federal leaders in opposing it, see Mr. Robert Goodloe Harper's speech of 9th March, 1796; and Mr. Ames's letter to Mr. Gore, of 11th March, 1796.



once concluded by the treaty-making branch of the government, however pernicious, or even ruinous, it might appear to them to be.

To this sweeping argumentation it was replied, with great force, that while the Constitution had delegated, in general terms, to the President and two-thirds of the Senate, the power of making treaties, it had, in the most explicit manner, vested certain specified legislative powers in Congress, — among them that of regulating commerce, of raising revenue, appropriating the public money, declaring war, &c.; that the general power of making treaties could not be construed to supersede or annul the powers specially and explicitly vested in the legislative branch of the government, but that, whenever a treaty included any subject committed by the Constitution to the legislative department, the co-operative agency of that department was necessary to give final effect to the treaty, and that in the exercise of that agency it deliberated with the same freedom and responsibility which appertained to its legislative character in general; that no participation whatever was claimed for the legislature in the power of *making* treaties, which was admitted to be in the President and Senate alone; that though a treaty, when duly concluded, is declared to be, with the Constitution and laws of the United States, the supreme law of the land, the declaration is made, as the context shows, with express reference to the Constitution and laws of the several States, and cannot in any manner affect the relations of

power between the independent departments of the Federal government.

To these weighty, and as would seem conclusive, reasonings, it was added, that, however unqualified the terms in which the treaty-making power is vested by the Constitution of the United States in the President and Senate, it cannot be more absolutely and exclusively vested in them than the same power is vested in the king by the English Constitution;<sup>1</sup> and yet the acknowledged privilege and invariable practice of the English Parliament is to deliberate freely on all treaties concluded by the sovereign relating to commerce, appropriations of the public money, and whatever else comes within the ordinary province of the legislative authority, and to make or withhold provisions for their execution as, all things considered, it shall judge wise and expedient;<sup>2</sup> that this practice, in a system akin to ours in so many of its features and guaranties for the public liberty, was well known to the people and deliberative bodies of the United States when the American Constitution was framed and adopted; and that it must be presumed to have been borne in mind by them — as there is abundant evidence,

<sup>1</sup> "The sovereign power of making treaties," says Blackstone, "is vested in the person of the king; and, whatever contracts he engages in, no other power in the kingdom can legally delay, resist, or annul." — *Comm.*, vol. i. p. 256.

<sup>2</sup> On a memorable occasion —

the treaty of commerce with France negotiated at the same time with the treaty of peace of Utrecht — the Parliament actually exercised this power, by refusing to carry the commercial treaty into effect. On many other occasions the same power has been claimed and asserted, and never denied.

indeed, that it was — as an analogous precedent and guide in reconciling and interpreting the corresponding provisions of the latter.

It is impossible for us to follow the course of this debate, which occupied the House for three entire weeks, and in which thirty-seven members, more or less distinguished, bore a part. The leading speakers in opposition to the resolution were Mr. Sedgwick of Massachusetts, with four of his colleagues; almost the whole delegation of Connecticut; and, bounding then over the Middle States, in which the opposition had been able to enlist but few orators, it re-appeared, with undiminished zeal, in the persons of Mr. Vans Murray of Maryland, and of Mr. Smith and Mr. Harper of South Carolina. On the side of the resolution, the principal champions were its mover, Mr. Livingston, of New York, who made an able and eloquent speech in its support towards the close of the debate; Mr. Galatin, of Pennsylvania, who greatly distinguished himself in the discussion by the keenness and force of his logic, as well as by the abundant resources of his information and learning; General Samuel Smith, the gallant and outspoken representative of Maryland; by Messrs. Nicholas, Giles, Page, and Brent, of Virginia, led by Mr. Madison, the acknowledged standard-bearer of the Constitution; and in the farther South, bringing up the column of parliamentary support, were the able representatives of Georgia, Messrs. Baldwin and Milledge.

The champions on both sides of the debate ex-



hibited an ingenuity and ability which have made this Congress an *epoch* in the parliamentary annals of America. It can be no disparagement, however, to any of them, to refer to Mr. Madison's part in it as a model of lucid constitutional exposition and analysis, sustained by unanswerable argument; candid and elevated in tone, as it was irresistible in logic; calm amid surrounding excitements; soaring far above the turbid region of party politics; and showing him to be, what he truly was, "a pillar of state," resting on the firm foundations of knowledge and reason, unshaken by the tempests of contemporary passions, or by "winds of doctrine" fashioned to the varying hour. We must refer the reader to the speech itself, as reported, however imperfectly, in the debates of Congress taken down at the time, to verify by intrinsic proofs the character here given of it.

On the 24th of March, the question was taken on the resolution, which was carried by a majority of nearly two to one, the vote being sixty-two yeas to thirty-seven nays. On the following day, the resolution was presented to the President by a committee of two members appointed for the purpose; and, on the 30th instant, he sent a written message to the House, declining altogether a compliance with the resolution, on the ground of its alleged interference with functions intrusted by the Constitution to another department of the government.

This message, we learn from private letters of the

President since published,<sup>1</sup> was prepared with the assistance of his new secretaries and attorney-general. The work itself sufficiently bears witness to the 'prentice-hand employed in its execution. It betrays the President, contrary to the conventional rules of official intercourse between the different branches of the government, and to his own well-known, dignified reserve, into allusions to the recent debates of the House, and to his *personal* knowledge of the intentions of the convention which framed the Constitution. He is also led into a misconception of the views of the House, by opposing to them the assertion, founded on this *personal* knowledge, that the Constitution had "vested the power of making treaties *exclusively* in the President and two-thirds of the Senate," as if the House had claimed a participation in that power. The message then refers, in support of the construction contended for by it, to certain proceedings of the State conventions at the time of the ratification of the Constitution; and to the fact appearing from the secret journal of the general convention, which had been confided to the custody of the President, that a proposition was made in that body, "that no treaty should be binding on the United States which was not *ratified by law*," and that the proposition was rejected.

When the message of the President was received, it was moved to refer it to a committee of the whole

<sup>1</sup> See Sparks's Washington, vol. xi. pp. 115-117; and Hamilton's Works, vol. vi. pp. 99, 100.

House on the state of the Union. This motion was resisted with great pertinacity and violence by the leaders of the Federal party. It was carried, however, by a large majority. The message was taken up for consideration on the 6th of April, 1796, when two resolutions, declaratory of the principles and opinions of the House, were offered by Mr. Blount of North Carolina. The leading resolution declares, "that the House of Representatives does not claim any agency in making treaties; but that, when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend, for its *execution* as to such regulations, on a law or laws to be passed by Congress; and that it is the constitutional right and duty of the House, in all such cases, to deliberate on the expediency or in expediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good."

As soon as the resolutions of Mr. Blount were offered, Mr. Madison rose to address the House in their support, and in answer to the message. The spirit in which this most delicate duty was performed by him is aptly defined in the observations with which he introduced the discussion. "If," said he, "in the present instance, it is to be particularly regretted that a difference of opinion should have arisen between two of the constituted authorities of the government, every motive to the regret is a motive to calmness, to candor, and the most



respectful delicacy towards the other constituted authority. On the other hand, the duty which the House of Representatives must feel to themselves and to their constituents requires that they should examine the subject with accuracy as well as with candor, and to decide on it with firmness as well as with moderation."

He then proceeded to review, with a close and minute analysis, every topic of the message concocted by the President's new counsellors; and, in doing so, left them not an inch of ground to stand upon before an enlightened public opinion. It is not possible to follow here every step of this able and conclusive demonstration. We can find room for only two citations, which derive a particular interest from the relation in which the speaker stood to the subject-matter of them. With regard to the extract from the journal of the Federal convention, showing that a proposition to declare that "no treaty should be binding on the United States which was not *ratified* by law" had been rejected by that body, he said, —

"He allowed this to be more precise than any evidence drawn from the debates in the convention, or resting on the memory of individuals. But admitting the case to be as stated, of which he had no doubt, although he had no recollection of it;<sup>1</sup>

<sup>1</sup> Although Mr. Madison, as was well known, had taken notes of the debates and proceedings of the Federal convention, "he had not with him at the seat of government," as

stated by him in this discussion, "a single note to assist his memory." The "Debates," &c., taken down by him, were then in Virginia, deposited with his friend Mr. Jefferson.

and admitting the record of the convention to be the oracle that ought to decide the true meaning of the Constitution,—what did this abstract vote amount to? Did it condemn the doctrine of the majority? So far from it, as he understood their doctrine, they must have voted as the convention did; for they do not contend that no treaty whatever can be operative without a law to sanction it. On the contrary, they admit that some treaties will operate without this sanction, and that it is no farther applicable in any case than where legislative objects are embraced by treaties. The term ‘ratify’ also deserves attention; for, although of loose signification in general, it has a technical meaning different from the agency claimed by the House on the subject of treaties.”

In relation to the proceedings of the State conventions when deliberating on the acceptance of the Constitution, which had been referred to in the message, he said, —

“He would appeal to the committee to decide, whether it did not appear, from a candid and collective view of the debates in those conventions, and particularly in that of Virginia, that the treaty-making power was a limited power; and that the powers in our Constitution, on this subject, bore an analogy to the powers on the same subject in the government of Great Britain. He wished as little as any member could to extend the analogies between the two governments; but it was clear that the constituent parts of two governments might be

perfectly heterogeneous, and yet the powers similar." After a review, somewhat more in detail, of some of the proceedings of the State conventions, he added, "On a review of these proceedings, may not the question be fairly asked whether it ought to be supposed that the several conventions — who showed so much jealousy with regard to the powers of commerce, of the purse, and of the sword, as to require for the exercise of them, in some cases two-thirds, in others three-fourths, of both branches of the legislature — could have understood that, by the treaty clauses in the Constitution, they had given to the President and Senate, without any control whatever from the House of Representatives, an absolute and unlimited power on all these great objects?"

No other speech was made on the subject of the Message but that of Mr. Madison, which neither admitted of reply by his opponents, nor addition to its clearness and force by his friends. By tacit consent, the question was then left to the decision of the House; and the resolutions of Mr. Blount, asserting the constitutional rights of the House against the doctrines of the Message, were carried by a vote of fifty-seven to thirty-five. Six members, who happened not to be in their seats when the question was taken, came in and requested permission to record their votes in favor of the resolutions, which would have made the division sixty-three to thirty-five;<sup>1</sup> but this the rules of the House did not allow.

<sup>1</sup> Letter of Mr. Madison to Mr. Jefferson, 11th April, 1796.



The treaty itself was taken up for consideration in Committee of the Whole on the 15th of April. A resolution was offered declaring it expedient to make the necessary appropriations for carrying the treaty into effect. At the same time, another resolution was laid on the table, which, reciting the need of fuller information with regard to the treaty, and the wanton perseverance of Great Britain in the impressment of American seamen and the unlawful seizure of American vessels, declared it to be the duty of the House, in fidelity to the trust reposed in it, to forbear at present taking any active measures for carrying the treaty into effect.

The debate on these resolutions was opened by Mr. Madison in a speech of great calmness and deliberation, making no appeal to the passions of the House, but addressing himself exclusively to its sober reason and judgment. He showed the want of reciprocity in some of the most essential provisions of the treaty; its abandonment of claims of unquestionable justice, hitherto recognized by Great Britain herself; its sacrifice of highly important national interests, connected with the commerce and legislative sovereignty of the United States; and, finally and especially, its ill-advised concessions on questions of maritime law, calculated directly to compromise our relations of neutrality and peace with another power, to whom we owed fair dealing and good faith at least, not to speak of the obligations of gratitude and honor. Having had occasion already to notice the views of Mr. Madison

on these topics, as expressed in his correspondence at the time of the first appearance of the treaty, we confine ourselves here to a few brief extracts of his speech, relative to the bearings of the treaty on the relations of the country with France.

Referring to the implied sanction given by the eighteenth article of the treaty to the seizure of our provision vessels destined to France, he recalled the positions taken by the government in the despatch of Mr. Jefferson, then secretary of State, of the 7th of September, 1793, to Mr. Pinckney, remonstrating against the British order of the 8th of June of that year, which first inaugurated those unlawful seizures. The ground then deliberately assumed and pressed by the executive of the United States was, that submission on our part to the principle of that order would be virtual war upon France. "If," said the despatch of the secretary of State, "we permit provisions to be sent to Great Britain and her friends, we are equally bound to permit the same trade to France. To restrain it with France would be a partiality which must lead to war; and between restraining it ourselves, and *permitting her enemies to restrain it unrightfully*, is no difference. She would consider this as a mere pretext, of which she would not be the dupe."

Mr. Madison proceeded to apply this well-considered doctrine of the executive to the existing condition of things:—

"The continuance of the spoliations on our

trade, and the impressment of our seamen, whether to be considered as a practical commentary on the treaty or as infractions of it, could not but enforce on the minds of the committee the most serious reflections. He referred again to the passage he had read from the despatch of Mr. Jefferson to Mr. Pinckney, and asked if, as there stated, our neutrality and peace with France would be compromised by permitting practices of that kind, what would be thought of our giving effect, *in the midst of such practices*, to a treaty from which a countenance might be derived by the offending nation for going on with them."

In this connection, Mr. Madison expressed — though in doing so he said he might be "stepping upon delicate ground" — his firm belief, that, if the President had not signed the treaty when he did, and were now called on to do so under the actual circumstances of the moment, he would withhold his signature. He concluded with the following remarks in answer to the alarm which had been sounded of a war with England, as the consequence of a failure to provide for the immediate execution of the treaty: —

"The idea of war, as a consequence of refusing to give effect to the treaty, is too visionary and incredible to be admitted into the question. No man would say, that the United States, if an independent people, had not a right to judge of their own interests, and to decline any treaty that did not duly provide for them. A refusal, therefore, could be



no cause nor pretext nor provocation for war or for any just resentment. But, apart from this, was it conceivable that Great Britain, with all the dangers and embarrassments which are now thickening upon her, would wantonly make war upon a country which was the best market she had in the world for her manufactures, which paid her an annual balance in specie of ten or twelve millions of dollars, and whose supplies were indispensable to an important part of her dominions? . . . With all the objections, therefore, to the treaty which he had stated, he hoped it would not now be carried into effect; and that an opportunity would be afforded for reconsidering the subject on principles more just and more honorable to the United States."

The debate in opposition to the treaty was continued with earnestness and ability by Mr. Gallatin, Mr. Swanwick, and Mr. Findley, of Pennsylvania; Mr. Giles and Mr. Preston, of Virginia; and Mr. Holland, of North Carolina. The immediate and unqualified execution of the treaty was urged, with strenuous and unbounded zeal, by the leading representatives of New England,—Mr. Sedgwick, Mr. Ames, Mr. Goodhue, of Massachusetts; Mr. Hillhouse, Mr. Tracy, Mr. Griswold, Mr. Swift, of Connecticut,—with here and there a more sober and less excited advocate in some of the other States. The ambitious and master effort, on the side of the treaty, was undoubtedly that of Mr. Ames. His speech on the occasion, though dealing much in glittering and barren generalities, and not unfre-

quently in strong assertions without proof, displayed a picturesque and pathetic power, and a wealth of illustration, combined with a polished elegance of diction, which have preserved its celebrity to the present day as one of the most finished pieces of oratory in the language.

The discussion continued, with alternations of hope and fear as to the result on both sides, for a fortnight. At length, on the 29th of April, the question was taken in Committee of the Whole on the resolution for the execution of the treaty, when there were forty-nine votes in the affirmative, and the same number in the negative. The chairman of the committee, Mr. Muhlenberg, being thus called to decide, said he was not satisfied with the resolution as it stood, but he would vote for it that it might go to the House, and be there amended. On the following day, it was passed in the House without amendment by a vote of fifty-one to forty-eight, — two of the known and firm opponents of the resolution being absent at the moment of taking the vote,<sup>1</sup> and several of those who voted for the resolution declaring their decided disapprobation of the treaty, while voting, under the peculiar exigencies of the situation, for its execution.

Thus was terminated, at last, a political struggle which stirred up the depths of the American mind more profoundly, perhaps, than any which has ever

<sup>1</sup> Mr. Patton, of Delaware, detained by illness; and Mr. Varnum, of Massachusetts, accidentally ab-

sent at the moment. — See Madison's Writings, vol. II. p. 101.

occurred in our history, and to which the aptest parallel is to be found in the furious shock of contending parties in England, near a century before, on the not dissimilar question, in some of its aspects, of the treaty of peace of Utrecht. The opponents of the American treaty acquiesced, with an honorable and loyal patriotism, in the decision of the House, as expressed in the resolution for the execution of the treaty. They had still strength enough, as we learn from an unimpeachable source,<sup>1</sup> to have passed a resolution condemning the terms of the treaty, whose execution had been voted under a species of political duress. But, unwilling to keep up the painful and dangerous excitement of the public mind, they forbore to exercise the power they possessed.

It could hardly be believed, but for the authentic and enduring evidence of the fact, what different and desperate counsels had been embraced by the leaders of the opposite party, when they apprehended the loss of their cherished object,—the treaty which was to draw closer their connection with Great Britain. Colonel Hamilton, having heard from Mr. Ames, during the progress of the discussion in the House of Representatives, that a majority of that body would probably be found opposed to making appropriations for carrying the treaty into effect, immediately wrote to his friend and confidant, Mr. Rufus King, in the Senate, tell-

<sup>1</sup> Letter of Rufus King to Colonel Hamilton, 1st May, 1796, Hamilton's Works, vol. vi. p. 112.



ing him that “a most important *crisis* would, in that event, arise, requiring *good men to play their cards well, and with promptitude and decision.*”

His plan was nothing short of a revolutionary *coup d'état*. It was that the President, immediately upon the refusal of the House to pass the appropriations called for, should address to them a *solemn protest*, denying the constitutional validity of their proceedings, and send a copy of this protest to the Senate, who should, by formal resolution, express in the strongest terms their approbation of the President's course, and declare their determination to support him, — advising him to proceed in the execution of the treaty by his sole agency, and to address a *confidential* communication to the British Minister, announcing his purpose to do so; that “the Senate should *hold fast*, and consent to no adjournment of the House of Representatives until they had first made the appropriations for the treaty;” and that the merchants, and citizens generally in favor of the treaty, should hold meetings, and pass resolutions pledging their support and adhesion to the President and Senate in the high-handed measures which the writer recommended.<sup>1</sup> What

<sup>1</sup> See this most reckless and startling project of the chieftain of the Federal party in his letter of the 15th April, 1796, to Rufus King, Esq., Hamilton's Works, vol. vi. pp. 103-105. How well prepared many of the Federal party were to embrace the desperate counsels of its leader, is shown by a single

collection of the secret political correspondence of the day. Oliver Wolcott, Jr., secretary of the treasury, writing to his father in March, 1796, anticipates the refusal of the House of Representatives to provide for the treaty, and says that, amid the “*confusions*” that would result, “*the government will be at an*

could such a daring attack on the privileges and freedom of the House, and the constitutional independence of the legislative department, have led to, but civil war? Well, therefore, did the writer add, "I do not write to the President on the subject." That great and virtuous magistrate would have withered, with the consuming glance of his indignation, the remotest suggestion of a plot fraught with consequences so fatal to the liberties and peace of his country.

The remaining proceedings of this session of Congress lost their interest for the nation, in comparison with the great question on which the public attention was concentrated with the intensest anxiety, until it was finally disposed of. A few weeks were then devoted to the current business of legislation; and, on the 1st day of June, 1796, the two Houses adjourned to the first Monday of December following,—the period fixed by the Constitution for the ordinary annual meetings of Congress.

*end.*"—Gibbs's Memoirs, vol. I. p. 321. In the same collection, Chauncy Goodrich, member of the House of Representatives, writes on 1st April, 1796, "My opinion is, that *no adjournment will be suffered* till the treaty shall be executed. *But no mention is to be made of this at present.*"—Idem, p. 325. And again, on the 23d April, eight days after the Hamilton indoctrination, he

writes, "I trust the *Senate*, if the House of Representatives refuse to provide for the treaty, will arrest the Federal City Loan Bill, Land Office, perhaps appropriations for the army; *refuse to rise; in short, arrest the whole government, and let the people decide.* The exigency of the case only can justify such perilous steps."—Idem, p. 331.

## CHAPTER LIII.

Effect produced in France by Resolution of Congress to carry Jay's Treaty into Execution — Dissatisfaction and Retaliatory Measures of the French Government — Exertions of Mr. Monroe to avert a Rupture — His Recall — Combination to effect it — Colonel Hamilton's Controversy with him — President publicly announces his Purpose to decline a Re-election — His Farewell Address — Unfounded Claims put forward to its Authorship — Canvass for the Succession — Mr. Adams the Federal Candidate — Secretly opposed by Colonel Hamilton and his Friends, who endeavor to elect to the Presidency Mr. Thomas Pinckney, Federal Candidate for Vice-President — Mr. Adams elected President; and Mr. Jefferson, the Republican Candidate for the Presidency, elected Vice-President — Controversial Correspondence between the French Minister and the Secretary of State — Its Asperity, on the Part of Mr. Pickering, condemned by Colonel Hamilton — Second and Offensive Note of Monsieur Adet, reviewing the Conduct of the American Government, and announcing Suspension of his Functions — Letter of Mr. Madison on the Critical State of Affairs — Meeting of Congress — Speech of the President — Laments Disturbance of Relations with France, and hopes for Restoration of Harmony — Address of the House in Answer to the President's Speech — Mr. Madison, as Member of Committee on the Address, concurs in Cordial Tribute to the Merits of the President's Official Career, and of his Exalted Character — Animated Debate on the Address — Finally carried by Large Majority — Division of Virginia Delegation — Conduct of Mr. Madison a Noble Proof of his Superiority to Party Influences, and of his Veneration and Attachment for the President — Sketch of the Character of Washington drawn by Madison — President lays before Congress Mr. Pickering's Answer to Last Note of Monsieur Adet — Comments of Mr. Madison on its



Belligerent Tone — President maintains his Pacific Attitude, while Cabinet embrace Warlike Counsels — Uncertain and Precarious State of the Question at the Accession of Mr. Adams.

THE ultimate resolution of Congress to give effect to the British treaty, with all its obnoxious provisions (the twelfth article alone excepted, which, as we have seen, was advised to be stricken out by the Senate), soon brought affairs with France to a crisis. The Directory, under the new French Constitution, was regularly installed in its functions on the 31st of October, 1795. Monsieur de la Croix, in notifying to Mr. Monroe, on the 7th of November, his appointment as Minister of foreign affairs, added, in very cordial terms, "Be assured that, in accepting this station, I have considered as one of its most important functions that of keeping up the friendship which subsists between the French republic and your government, and that I shall seize with eagerness every opportunity to tighten its bonds."

The Directory, after taking three months for a calm and deliberate review of the relations with the United States, as affected by Jay's treaty and the President's ratification of it, authorized the Minister of foreign affairs to announce to Mr. Monroe the result of its deliberations on the subject, which he did on the 15th day of February, 1796, in these terms: "The Directory had at length made up its mind how to act in regard to your treaty with England; that it considered the alliance between the two countries as ceasing to exist from the moment

the treaty was ratified; and would appoint an *Envoy Extraordinary* to attend and represent the same to the government of the United States.”<sup>1</sup>

It appeared to Mr. Monroe, that so solemn a measure as the one intimated would be attended with a serious hazard of still further compromising the peaceful relations of the two countries; and he earnestly appealed to the Minister, in the interests of both republics, to forbear precipitate action. On the following day, he had another interview with the Minister, and, in the same friendly and conciliatory spirit, renewed his expostulations; which, there was reason to believe, produced the desired impression, as he was assured by the Minister, a few days afterwards, that “the Directory was disposed to accommodate in this respect, and make its representations through the ordinary channel. He repeated, however, on this occasion, in terms equally strong with those he had used before, the sense the Directory entertained of the injury done to France by the treaty, and upon which explanations were expected, and would be sought.”<sup>2</sup>

Mr. Monroe, learning that the subject of a special mission was not yet finally disposed of by the Directory, felt it his duty to solicit an interview with that body itself, which took place in a full council of its members, attended by the Ministers of foreign affairs and of the marine. His repre-

<sup>1</sup> Despatch of Mr. Monroe, of 16th February, 1796, Monroe's View, App., p. 311.

<sup>2</sup> Despatch of 10th of March, 1796, Monroe's View, App., p. 314.

sentations to the Directory were made with the same manly and conciliatory frankness which had marked his communications with the Minister. He proposed that the complaints of the French government should be made known to him in a precise form and in writing by the Minister of foreign affairs, to which he would respond with all candor and respect; and that, "in the mean time, the Directory should suspend any decision with regard to the merits of its complaints or the propriety of a special mission. The Directory replied that nothing was more reasonable than my demand, and that it should be complied with." Mr. Monroe adds, that "several of the members of the Directory reciprocated, with great earnestness, the professions of friendship made in the name of the United States for France."<sup>1</sup>

<sup>1</sup> Despatch of 25th March, 1796, Monroe's View, App., pp. 316, 317. There is every reason to believe, that Mr. Monroe's influence with the Directory at this time averted an open rupture between France and the United States. We learn from an able and well-informed French historian, that there was a party in the Directory in favor of war with the United States, and that this party was headed by Carnot, then president of the body, sustained, doubtless, by his colleague, Letourneur, who always followed his lead. With the three other members, La Reveillère, Rewbell, and Barras, the influence of Mr. Monroe prevailed, and turned

the scale. We give a brief extract from the narrative of M. Thiers:—

"L'avis d'une rupture avec les États Unis avait des partisans dans le gouvernement français. Monroe, qui était ambassadeur à Paris, donnait à cet égard les plus sages avis au Directoire. . . . Cet avis sage et prévoyant l'avait emporté au Directoire. . . . Rewbell, Barras, La Reveillère l'avait fait triompher contre l'avis du systématique Carnot, qui, quoique disposé ordinairement pour la paix, voulait qu'on se fît donner La Louisiane, et qu'on y essayât une République." — Hist. de la Rev. Française, tome ix. p. 45.

Mr. Monroe was fully aware of



In pursuance of this understanding, the Minister of foreign affairs communicated to Mr. Monroe, on the 11th of March, his exposition of the complaints of the French government; and, on the 15th of the month, Mr. Monroe addressed to him a long and able paper in reply. About two months after the interview with the Directory, a member of that body informed Mr. Monroe, that "nothing had yet been done by them in regard to the United States on the subject of the treaty, and he presumed nothing more would be done for the present."<sup>1</sup> Thus the matter stood until the 25th of June, 1796, when M. de la Croix addressed a note to Mr. Monroe, informing him of the receipt of intelligence that the House of Representatives of the United States had passed a resolution for the execution of the treaty, "after which," he added, "we ought, without doubt, to consider it in full force;" and asking of Mr. Monroe whether "he had any official information on the subject, and in what light this measure was to be viewed."

the formidable foothold which the partisans of war with the United States had in the councils of the French government, and his efforts were unceasingly directed to counteract them. In a private letter to Mr. Madison, of 27th February, 1796, he writes, "The Minister declares that he prefers to have us as open enemies rather than perfidious friends. Other proofs occur to show that this sentiment has gone deep into their councils."—See Writings of Madison, vol. II. p. 105. By

perseverance and tact, Mr. Monroe gained a majority of the Directory to his side. La Reveillère-Lepaux, a man of great virtue and purity of character, as well as of distinguished ability, was the leader of this section of the Executive Directory. Mr. Monroe was accustomed to speak of him with great reverence and respect. See the interesting and striking character drawn of him by M. Thiers, in his *Hist. de la Rev. Française*, vol. IX. pp. 6–10.

<sup>1</sup> Monroe's View, App., p. 345.

Mr. Monroe replied, on the first point, that he had no information but what the newspapers supplied; and on the second he said, "I have already answered in a very detailed, and as I hoped satisfactory, manner your several objections to the treaty, to which I have since received no reply. It is impossible for me to enter again, and under such circumstances, into the subject. If there are any points in the answer given upon which you think I have not been sufficiently explicit, and you will be pleased to state these to me, I will immediately notice them more particularly, and I hope to your satisfaction; since, be assured, there is no political object I have more at heart than to preserve, by the utmost candor and frankness in all my communications, the best harmony between our two republics."

On the 7th of July, Mr. Monroe received a communication from Monsieur de la Croix, saying, "You call my attention to the arguments which your letter of 15th of March last contains, relative to our complaints against the treaty concluded between the United States and Great Britain. *Time*, Citizen Minister, has sufficiently ripened the points that were then in discussion; and, far from being enfeebled, our complaints against that treaty have since acquired, in our estimation, new force. I will content myself, then, without entering into further details, to announce to you that the opinion of the Directory has never varied upon that point. It has seen in this act, concluded in the midst of

hostilities, a breach of the friendship which bound together the United States and this republic; and, in the stipulations which respect the neutrality of the flag, an abandonment of the tacit agreement which subsisted between the two nations on this point since their treaty of commerce of 1778. . . . After this, Citizen Minister, the Executive Directory considers itself founded in regarding the stipulations of the treaty of 1778 as altered and suspended, in their most essential parts, by this act; and that it would fail in its duty if it did not modify a state of things which would never have been consented to but upon condition of the strictest reciprocity.”<sup>1</sup>

Five days previous to this communication, — to wit, on the 2d of July, — the Directory had adopted an *arrêt*, which was doubtless the “modification” of the state of things as existing under the treaties of 1778, which it felt it its duty to make. The *arrêt* seems to have been the immediate rebound from the final action of the Congress of the United States on the British treaty, and was in these words: —

“All neutral or allied powers shall without delay be notified, that the flag of the French republic will treat neutral vessels, either as to confiscations, searches, or captures, as they shall suffer the British flag to treat them.”

Mr. Monroe continued to give a vigilant attention to every circumstance which seemed to threaten the peaceful relations of the two republics. The French

<sup>1</sup> See Monroe's View, App., pp. 355, 356.



government, probably in ignorance of the facts of the case, or without due consideration of their gravity, had announced the appointment of Monsieur Mangourit as *chargé d'affaires* to the United States, to succeed to the diplomatic functions of M. Adet. This gentleman had formerly resided as consul of France at Charleston, and his proceedings in that character had given just offence to the American government. To re-accredit him now, in a new and diplomatic capacity, to the United States, could not be viewed then but in an unfriendly light. As soon as Mr. Monroe was apprised of it, he not only called on the Minister of foreign affairs and remonstrated with him against the appointment, but carried his complaints before a member of the Executive Directory. The result of his interposition was soon manifested, and made known to the secretary of State. "I have now the pleasure," he wrote, "to inform you, upon the authority of the member of the Directory to whom I spoke, that the *arrêt* appointing Monsieur Mangourit is rescinded."<sup>1</sup>

While Mr. Monroe was thus faithfully and efficiently watching over the interests and honor of the United States in France, and endeavoring as far as possible, under most difficult and embarrassing circumstances, to preserve the peace of the two countries, a disreputable intrigue was going on, by high official personages and others in the United

<sup>1</sup> See despatches of 4th and 15th August, 1796, *Monroe's View, App.*, pp. 360 and 362.

States, to undermine him at home. In a despatch of the 13th of June, 1796, the secretary complained that he had not, with sufficient promptitude and energy, made use of the arguments furnished by the department to reconcile the French government to the British treaty, and instructed him, if he had not already done so, no longer to delay it. Mr. Monroe, who, from his presence on the spot, and thorough knowledge of the temper of the French government, was undoubtedly the best judge of the *mode* of treating so delicate a subject, answered, with dignity and great weight of reason, the complaints of the secretary.<sup>1</sup> In the despatch here referred to, no indication was given of any purpose of recalling the Minister. But, on the following day, Mr. Wolcott, secretary of the treasury, wrote to Colonel Hamilton, without whose advice he could do nothing, and upon whose approbation or instigation he was ready to do any thing, asking his opinion as to the expediency of recalling Mr. Monroe. Colonel Hamilton, who had an unadjusted personal controversy at the time with Mr. Monroe, in his reply to Mr. Wolcott strongly recommended the recall; and a few days afterwards wrote to the President, formally advising it.<sup>2</sup>

<sup>1</sup> See his letter of 10th September, 1796, Am. State Papers, For. Rel., vol. i. pp. 742, 743.

<sup>2</sup> For the correspondence with Wolcott, see Gibbs's Memoirs, vol. i. pp. 359-361; and, for the letter to

the President, Hamilton's Works, vol. vi. pp. 134, 135.

The controversy between Colonel Hamilton and Mr. Monroe, alluded to in the text, was causelessly renewed by the former, im-

The President was then at Mount Vernon; and the cabinet took all the preliminary steps to prepare the train for the destruction of the selected victim. They united in a written representation to him, urging the immediate recall of the Minister; which they supported not only by the imputed guilt of his omission to accomplish an impossibility,—to wit, to reconcile the French government to the British treaty,—but by the unpardonable sin of a friendly correspondence with some of the opponents of the administration, in proof of which they exhibited a private letter, secretly obtained of the Minister, addressed to a Republican friend in America.<sup>1</sup> The President, thus earnestly and unremittingly pressed by his cabinet during the few days of coveted repose from official vexations he was

mediately after the return of Mr. Monroe to the United States. For the nature of that controversy, we must refer to an extraordinary pamphlet, written and published by Colonel Hamilton in the summer of 1797. Happy would it be for the good name of Colonel Hamilton, if that infatuated publication could be consigned to total oblivion. But, strange to say, his biographer vauntingly parades it as doing great honor to the elevated character of his subject. — See Hist. Am. Rep., &c., vol. VII. p. 81. In how different a light it appeared to other minds, ordinarily the least disposed to censoriousness, is shown by a letter of Mr. Madison to Mr. Jefferson at the time, in which the sentiments of disgust and moral

reprobation awakened by the publication moved him to a warmth and severity of expression rarely found in his most unreserved correspondence. “Next to the error of publishing at all,” he says, “is that of forgetting that simplicity and candor are the only dress which prudence would put on innocence. Here we see every rhetorical artifice employed to excite the *spirit of party* to prop his sinking reputation; and, whilst the most exaggerated complaints are uttered against the unfair and virulent persecutions of himself, he deals out, in every page, the most malignant insinuations against others.”—Madison’s Writings, vol. II. p. 119.

<sup>1</sup> See Sparks’s Washington, vol. XI. pp. 483–487.



hoping for at Mount Vernon, at last yielded his assent to the recall; which was officially notified to Mr. Monroe on the 22d of August, 1796, with the appointment of General Charles Cotesworth Pinckney, of South Carolina, as his successor.

Here, for the present, we leave the painful story of our embroiled relations with our ancient ally and friend, soon to be resumed with the addition of other and yet more painful complications and embarrassments. In the mean time, the President, wearied with the toils of office, and disgusted, as he must have been, by the incessant machinations and intrigues of politicians, carried into execution his long-cherished purpose of declining a re-election. On the 17th of September, 1796, he published his farewell address, announcing to his countrymen his determination to seek the shelter of private life for his remaining years, and bequeathing to them the counsels of an enlightened and paternal zeal for their welfare, and his ardent vows for the perpetuity of those free republican institutions, and that constitutional Federal union, which he had so largely contributed to found for the liberty and happiness of his native country.<sup>1</sup>

<sup>1</sup> Whatever difference of opinion may have formerly existed as to the authorship, in any just and proper sense, of this sacred State paper, must now cease before the accumulated proofs which time has brought forth. General Washington never having made any pretensions to literary authorship on an

extended scale, there were persons who had been led to believe, that, in so large a performance, he was mainly indebted to some friendly and practised hand, especially that of Colonel Hamilton. Even Mr. Madison, at one time, intimated that opinion. — See his letter of 27th June, 1823, in Madison's Writ-

As soon as Washington's purpose of retirement was formally announced, the canvass for the suc-

ings, vol. III. pp. 323, 324. But this was in ignorance of the second draught of a farewell address prepared by Washington in 1796, and for the first time made known to the public in 1837, when Mr. Sparks completed his publication of Washington's papers.

That draught contained, though not arranged in a systematic order, all the elements of the Farewell Address; and from it Colonel Hamilton elaborated a more technical and regular draught, upon which Washington set to work again, and by selections, alterations, and rejections, made with great care and discrimination, finally prepared the address for the press, as it now appears before the world. The whole process is made manifest to the eye by the autograph copy of the paper (with Washington's numerous cancellations, interlineations, and other changes upon the face of it) from which the address was printed, and which the antiquarian zeal of a most worthy citizen of New York, Mr. James Lenox, succeeded in obtaining, and has, with a laudable spirit, made public, to gratify the filial reverence and curiosity of the country.

There cannot be a more interesting study, both in a literary and historical point of view, than this paper affords. It shows that the address, as it went forth to the world, was not only the "image and superscription," but the coinage, of Washington's mind, from which he carefully excluded every thing which was not his own in thought,

and, by original use or discriminating adoption, in expression also. In one instance, it appears that Colonel Hamilton, whose pen had been called to his assistance, introduced a well-known sentiment of his own, detracting from the merits of the Constitution in regard to its energy and efficiency. The attempt was made, in two successive draughts, slightly varied, to obtain Washington's adoption and indorsement of this sentiment; but the attempt was inexorably repelled by him, who took care to substitute a phraseology which left no doubt of his opinion of the sufficiency of the Constitution for every purpose of good government. — See these various readings, in parallel columns, in Binney's *Inquiry*, p. 146.

Throughout we see the imperial, presiding mind of Washington, sitting in judgment on the draught before him, freely expunging, altering, and modifying whatever did not find a sanction in his unerring sagacity. This was a higher exertion of intellectual power, and constituted true authorship in a higher sense, than the manipulations, however skilful, of the literary or professional artist; and we shall be greatly mistaken if it does not also appear, that, even in point of literary taste, Washington, in the alterations made by him, evinced a juster apprehension of the graces of a well-turned and balanced style, and of the appropriate significance of individual words and phrases, than was shown by his distinguished assistant

cession, which had already begun under the general anticipation of that event, was pushed forward with greatly increased animation. Mr. Adams, by a combination of various circumstances in his favor, and especially by the prestige of his revolutionary services, became the adopted, and to a great degree inevitable, candidate of the Federal party, though he was far from being agreeable to many members of that party. Colonel Hamilton and his particular friends, if it had been found practicable, would have much preferred another choice, — Mr. Jay, if not himself. But, being driven by the force of circumstances to accept Mr. Adams as the candidate of the party, their next resort was to associate with him, nominally as candidate for the Vice-Presidency, a gentleman who, obtaining an equal number of votes in those parts of the Union where the Federal party had an undisputed ascendancy, might, from local preferences in other quarters, receive some votes which Mr. Adams would not; and thus become, as the Constitution then stood, President, instead of Mr. Adams.

This device was originated by Colonel Hamilton, to whom Mr. Adams was unacceptable by the inflexibility of his temper, and his known disapprobation of some of the financial schemes of the late secretary; and was attempted to be carried into execution through his friends and partisans in the leading Federal States. Mr. Thomas Pinckney, of South Carolina, the late Minister to London, was the selected candidate to be associated on the Fed-



eral presidential ticket with Mr. Adams.<sup>1</sup> Mr. Jefferson was the cordial and unanimous choice of the Republican party for the office of President, though yielding with the utmost reluctance to the wishes of his friends, which again brought him forth from his cherished retirement into the arena of political strife. The same unanimity did not prevail in the choice of the Republican candidate for the second executive office. The votes of the party were much divided; the largest number falling to the share of Mr. Aaron Burr, of New York.

The game of Colonel Hamilton for foisting Mr. Pinckney into the station allotted by the general voice of his party to Mr. Adams, though played with great caution and secrecy, came to be well understood at the time, as it is now incontestably proved by documents of contemporary date, which have since been brought to light. Mr. Madison, writing to Mr. Jefferson before the result of the election was definitively known, says, "It is not improbable that Pinckney will step in between the two who have been treated as principals in the question. It is even suspected that this turn has been secretly meditated from the beginning, in a quarter where the *leading* zeal for Adams has been affected. This jockeyship is accounted for by the enmity of Adams to banks and funding systems,

<sup>1</sup> It is a curious spectacle to find the name of Patrick Henry, of Virginia, prominent among the favored candidates of the Federal party, at this time, for the Vice-

Presidency, though doubtless without his concurrence.—See Hamilton's Works, vol. vi. p. 114; and Gibbs's Memoirs, vol. i. p. 337.

which is now become public, and by an apprehension that he is too headstrong to be a fit puppet for intriguers behind the screen.”<sup>1</sup>

The scheme of Colonel Hamilton, as often happens to an artificial and over-refined policy, “o’erleaped itself, and fell on the other side.” It disgusted the great body of Mr. Adams’s New-England friends, and led them to divert from Mr. Pinckney as many as eighteen Federal electoral votes, which were thrown away on local favorites, and thus secured the election of Mr. Jefferson to the second office of the government,—an event which was earnestly deprecated by the Federal party, and by Colonel Hamilton especially. Mr. Adams received seventy-one electoral votes, a majority of two only of the whole number, making him President; Mr. Jefferson the next highest number, sixty-eight, making him Vice-President; and Mr. Pinckney fifty-nine, leaving him a private citizen and defeated candidate. Among the seventy-one votes received by Mr. Adams, one was from Virginia, one from North Carolina, and one from Pennsylvania,—States which gave the whole of their electoral suffrages, with these isolated exceptions, to Mr. Jefferson. If these estray votes had followed what

<sup>1</sup> Letter of 5th December, 1796. In a subsequent letter of 19th December, he says, “It is certain that Mr. Adams’s censures of the paper system, and the intrigues at New York for setting Pinckney above him, have fixed an enmity with the British faction;” and in a letter of

15th of January, 1797, these passages occur: “Mr. Adams is fully apprised of the trick aimed at him by his pseudo friends of New York.” — “Hamilton has lost ground in New York of late, and his treachery to Adams will open the eyes of New England.”

seemed their natural destination (and Colonel Hamilton afterwards said "it was a sort of miracle" they did not),<sup>1</sup> Mr. Jefferson, and not Mr. Adams, would have been President.

In the midst of the presidential election appeared a controversial correspondence of great asperity, between the French Minister, M. Adet, and the American secretary of State, Mr. Pickering, which not only added fuel to the flame of political excitement already engendered in the pending contest of parties, but introduced new elements of discord and trouble into the disturbed international relations of the two countries. On the 27th October, 1796, Monsieur Adet addressed a note to the secretary, containing an official notification of the *arrêt* of the Directory already referred to, for treating the flag of neutral powers as they suffered their flag to be treated by England; and, in doing so, he recapitulated the circumstances and considerations which, in the judgment of the French government, rendered necessary and justified this measure of retaliatory policy. In the course of his note, the French Minister referred to previous remonstrances of his, which had remained without answer; and particularly to certain representations respecting the impressment of American seamen by Great Britain, by which means "she strengthened her marine forces, in the existing war, at the expense of the Americans, without the government of the United States having made known to the French govern-

<sup>1</sup> Hamilton's Works, vol. VII. p. 696.



ment or its representative any steps taken by it to obtain satisfaction for a violation of neutrality so hurtful to the interests of France."

Mr. Pickering, in his reply to the French Minister, after controverting the sufficiency of the reasons assigned for the *arrêt* of the 2d of July, justified himself very curtly for not answering the previous remonstrances of the Minister, by what he considered the unbecoming language in which they were conveyed; and summarily denied his right to ask any explanations on the subject of American seamen impressed by Great Britain, "as a matter which concerned only the government of the United States; and that, as an independent power, they were not bound to render an account to any other of the measures they deemed proper for the protection of their own citizens, so long as there was not the slightest ground to suspect that the government ever acquiesced in any aggression." Both parties to this correspondence immediately stepped into the newspapers to submit the merits of their controversy to the cognizance of an excited public opinion. Monsieur Adet sent his communication to the press the day it was written; and Mr. Pickering's reply was read by him in the newspapers, he says, the morning after its delivery to him in manuscript.

As a sober and judicious estimate of Mr. Pickering's part in this diplomatic controversy, from a friendly as well as competent source, we give here a brief extract from a letter of Colonel Hamilton to

Mr. Wolcott, written soon after the appearance of the correspondence in the newspapers. "Though the thing is now passed," he says, "I do not think it useless to say to you that I was not well pleased with the secretary of State's answer to Adet's note communicating the order respecting neutral vessels. There was something of hardness and epigrammatic sharpness in it. Neither did I think the position true, that France had no right to inquire respecting the affair of seamen. I am of opinion, that, whenever a neutral nation suffers liberties to be taken with it by a belligerent one which turn to the detriment of the other belligerent, as the acquiring strength by impressing our seamen, there is a good ground of inquiry demanding candid explanation. My opinion, is that our communications should be *calm, reasoning, earnest*, showing steady resolution more than feeling, having force in the idea rather than in the expression."<sup>1</sup>

But the scene of mischievous diplomatic wrangling, thus opened, unfortunately did not end here. On the 15th of November, 1796, Monsieur Adet addressed another and very elaborate note to the secretary of State, which was at once delivered to the press, reviewing, in great detail, the relations of France and the United States from the origin of the war in Europe, and commenting with great freedom and severity on the conduct of the American government. It was in the worst style of the diplomatic ravings of his predecessor, Genet.

<sup>1</sup> Letter dated 22d November, 1796, Hamilton's Works, vol. VI. p. 180.

Doubtless, the government of France felt itself deeply aggrieved by the public authorities of the United States in the several instances recalled by its Minister, and especially in the late treaty with Great Britain. But official decorum, self-respect, and the interests of peace demanded that its complaints should be made known in the measured language appropriated to the intercourse of nations, and springing from a calm consciousness of collective power, and not in the billingsgate of an angry and impotent personal quarrel. Monsieur Adet concluded with notifying, by the orders of his government, the suspension of his diplomatic functions in the United States; "which was not, however," he added, "to be regarded as a rupture between the two countries, as the Executive Directory wish not to break with a people whom they still love to salute by the appellation of friend."

Such was the unhappy state of the relations between France and the United States, aggravated, almost beyond the hope of remedy, by the mutual indiscretions, and want of good temper and good sense, of the respective organs of their intercourse on this side of the Atlantic, when Congress re-assembled on the 5th day of December, 1796. Mr. Madison, in a confidential letter to Mr. Jefferson on the same day, thus expressed his apprehensions and anxieties on the subject: —

"Adet's note, which you will have seen, is working all the evil with which it is pregnant. Those who rejoice at its indiscretions, and are taking ad-



vantage of them, have the impudence to pretend that it is an electioneering manœuvre, and that the French government has been led to it by the opponents of the British treaty. Unless the unhappy effect of it here, and cause of it in France, be speedily obviated by *wise councils and healing measures*, the crisis will unquestionably be perverted into a perpetual alienation of the two countries by the secret enemies of both. The immediate consequences of such an event may be distressing; but the permanent ones to the commercial and other great interests of this country form a long and melancholy catalogue. We know nothing of the policy meditated by the executive on this occasion. The speech will probably furnish some explanations of it."

The President met the two Houses of Congress on the 7th day of December, and in his speech delivered on the occasion, after presenting for their consideration various subjects of domestic and foreign concern, thus expressed himself with regard to the recent unhappy disturbance of the relations with France:—

"It has been my constant, sincere, and ardent wish, in conformity with that of our nation, to maintain cordial harmony and a perfectly friendly understanding with that republic. This wish remains unabated; and I shall persevere in the endeavor to fulfil it to the utmost extent of what shall be consistent with a just and indispensable regard to the rights and honor of our country; nor will I cease

to cherish the expectation, that a spirit of justice, candor, and friendship, on the part of the republic, will eventually insure success. In pursuing this course, however, I cannot forget what is due to the character of our government and nation, or to a full and entire confidence in the good sense, patriotism, self-respect, and fortitude of my countrymen. I reserve for a special message a more particular communication on this interesting subject."

He concluded his speech with the following impressive allusion to the circumstances in which he then stood, for the last time, before the representatives of the nation:—

"The situation in which I now stand, for the last time, before the representatives of the people of the United States, naturally recalls the period when the administration of the present form of government commenced; and I cannot omit the occasion to congratulate you and my country on the success of the experiment, nor to repeat my fervent supplications to the Supreme Ruler of the universe, and Sovereign Arbiter of nations, that his providential care may still be extended to the United States; that the virtue and happiness of the people may be preserved; and that the government, which they have instituted for the protection of their liberties, may be perpetual."

The speech was referred, as usual, to a committee to report an address. The lines of party division were now so sharply drawn, especially since the late discussions on the British treaty, that Mr.

Madison was no longer placed at the head of the committee, as he had heretofore invariably been, to prepare the address. Mr. Ames was made chairman of the committee; but Mr. Madison and Mr. Baldwin, of the Republican party, were placed upon it as members, together with Mr. Sitgreaves of Pennsylvania, and Mr. Smith of South Carolina, of the Federal party. This gave to the Federalists a majority of the committee; but in the well-known personal attachment of Mr. Madison, and his high veneration for the character, private and public, of the President, and in the moderate and conciliatory sentiments of Mr. Baldwin, an assurance was felt that, with a just spirit of compromise on all sides, an address could be framed which would have a reasonable prospect of passing through the House "without altercation or division,"<sup>1</sup> — so much to be deprecated on such an interesting and solemn occasion. The address reported received the *unanimous* assent of the committee.

In response to that part of the President's speech which referred to the disturbed state of our relations with France, the address was a literal and exact echo of the language and sentiments of the speech.

Expressing then, in answer to the President's congratulations on the success of the great American experiment, a profound sense of the inestimable benefits derived, under Providence, from the establishment of the "free Constitution" of the United States, the address proceeded, —

<sup>1</sup> Letter of Mr. Madison to Mr. Jefferson, 10th December, 1796.



“While we entertain a grateful conviction, that your wise, firm, and patriotic administration has been signally conducive to the success of the present form of government, we cannot forbear to express the deep sensations of regret with which we contemplate your intended retirement from office. . . . Yet we cannot be unmindful that your moderation and magnanimity, twice displayed by retiring from your exalted stations, afford examples no less rare and instructive to mankind, than valuable to a republic.”

It concluded with fervent expressions of admiration and affection for the person and character of the illustrious citizen now about to close for ever his connection with the scenes of political life.

“The spectacle of a whole nation, the freest and most enlightened in the world, offering, by its representatives, the tribute of unfeigned approbation to its first citizen, however novel and interesting it may be, derives all its lustre — a lustre which accident or enthusiasm could never bestow, and which adulation would tarnish — from the transcendent merit of which it is the voluntary testimony. May you long enjoy that liberty which is so dear to you, and to which your name will ever be dear! May your own virtues and a nation’s prayers obtain the happiest sunshine for the decline of your days, and the choicest of future blessings. For your country’s sake — for the sake of republican liberty — it is our earnest wish, that your example may be the guide of your successors; and thus, after being the orna-

ment and safeguard of the present age, become the patrimony of our descendants.”

The address, unfortunately, did not meet with the same unanimity in the House which it had received in the committee. Two additions, however, were readily made to it by general consent, which served to render the meaning of the address more explicit. In that part of it which referred to the relations with the French republic, the hope was expressed that the President would persevere “in his endeavors to fulfil the wish” avowed by him to maintain a perfectly friendly understanding with that nation ; and that “a spirit of moderation and justice *on the part of the republic*” would insure the success of those endeavors. It was now proposed to add, after the word “wish” in this sentence, the following clause : “and *by all honorable means to preserve peace, and restore that harmony and affection which have heretofore so happily subsisted, between the French republic and the United States.*” It was also proposed to qualify the terms, “a spirit of justice and moderation, *on the part of the republic,*” by prefixing the epithet “*mutual*” to the spirit of justice and moderation, and striking out “*on the part of the republic*” at the close ; so as to imply the equal obligation of these motives and principles of action on each side, — that of the United States as well as France. Both of these suggestions were promptly and unanimously accepted.

Mr. Giles then moved to strike out all the passages above cited of the address, — relating to the

general wisdom and firmness of the administration ; expressing regret at the retirement of the President ; a hope that his example may be the guide of his successors ; and the allusion incidentally made to the people of the United States as the freest and most enlightened in the world, — declaring the intention, if his proposition prevailed, to move the re-commitment of the address, that it might be reformed in all these particulars. This and similar motions from other quarters gave rise to a very warm and animated debate, which continued for two days, Mr. Ames and Mr. Giles being the leading champions on the opposite sides ; in which many topics of great delicacy were introduced, both with regard to the official merits of the President, and the comparative causes of complaint against the two great belligerents of Europe, — England and France. The motion of Mr. Giles, and all others of a like character, were rejected ; and the address reported by the committee, with the two modifications above mentioned, was finally adopted by a vote of sixty-seven to twelve.<sup>1</sup>

The address of the House was received by the President with the profoundest sensibility, expressed in the glowing and eloquent language of the heart.

<sup>1</sup> The division on the separate question of striking out the clause of the address expressing a wish that Washington's example might be the guide of his successors, was a more correct index of the political feelings of the House than the vote on the final adoption of the address.

On that question, the aggregate vote was twenty-four for striking out, and fifty-four against ; and, of the Virginia delegation, eight voted for striking out, and four only — Madison, Nicholas, Page, and Claiborne — against.



“No reward for public services,” he said, “can be so grateful as the public approbation; and, when this approbation is expressed by the representatives of a free and enlightened nation, the reward admits of no addition. Receive, gentlemen, my sincere and affectionate thanks for this signal testimony that my services have been acceptable and useful to my country.” In answer to that part of the address which respected the relations with France, he gave this emphatic assurance to the House, using the very language of the modification which had been agreed upon in its passage: “I beg you, gentlemen, to rest assured, that my endeavors will be earnest and unceasing, by all honorable means, to *preserve peace, and to restore that harmony and affection which have heretofore so happily subsisted, between our two nations*; and with you I cherish the pleasing hope, that a *mutual* spirit of justice and moderation will crown those endeavors with success.”

The concurrence and agency of Mr. Madison, as a member of the committee on the address, in the noble tribute paid to the public and official merits of Washington, is, under the circumstances of the case, a most striking proof of the depth of his veneration and attachment for that great man, and of his lofty superiority to the shackles of party. He well knew that it would array him against the sentiments of a large majority of his colleagues from Virginia. Like them, he had opposed some important measures of Washington's administra-

tion;<sup>1</sup> but this did not prevent him from bearing a manly testimony to the general merits of his presidency. No one knew better than himself Washington's grandeur of soul, his disciplined calmness and equanimity, his superior wisdom and virtue, and the elevation and purity of the principles which governed every act of his life. If he sometimes fell into error, as he doubtless did, — for such is the inseparable lot of humanity, — the fault was imputable not so much to him, as to the councillors whom a peculiarly hard and cruel fortune had imposed upon him.

As both Washington and Madison now withdrew — the latter temporarily — from public life, and will never appear again on the political scene together, the occasion seems a suitable one for presenting to the reader an unambitious sketch of the character of Washington, drawn by Mr. Madison, many years afterwards, amid the tranquil scenes of his own final retirement, and intended, it would seem, to preserve for his family and friends his personal recollections and impressions of the great American patriot and chief: —

“The strength of his character lay in his integrity, his love of justice, his fortitude, the soundness of his judgment, and his remarkable prudence; to

<sup>1</sup> The cordial and friendly intercourse between the President and Mr. Madison was never interrupted by their occasional differences of opinion on public measures. See, as an example of this, a note

from Mr. Madison to the President, a short time before his retirement from office, returning a book which the President had sent him for his opinion on its merits. — Madison's Writings, vol. II. p. 106.

which he joined an elevated sense of patriotic duty, and a reliance on the enlightened and impartial world as the tribunal by which a lasting sentence on his career would be pronounced. Nor was he without the advantage of a stature and figure which, however insignificant when separated from greatness of character, do not fail, when combined with it, to aid the attraction. What particularly distinguished him was a modest dignity, which at once commanded the highest respect and inspired the purest attachment.

“Although not idolizing public opinion, no man could be more attentive to the means of ascertaining it. In comparing the candidates for office, he was particularly inquisitive as to their standing with the public, and the opinion entertained of them by men of public weight. On important questions to be decided by him, he spared no pains to gain information from all quarters; freely asking from all whom he held in esteem, and who were intimate with him, a free communication of their sentiments; receiving with great attention the arguments and opinions offered to him; and making up his own judgment with all the leisure that was permitted. If any erroneous changes took place in his views of persons and public affairs near the close of his life, as has been insinuated, they may probably be accounted for by circumstances which threw him into an exclusive communication with men of one party, who took advantage of his retired situation to make impressions unfavorable to their opponents.”



On the 19th of January, 1797, the President laid before Congress the further communication, promised at the opening of the session, on the state of affairs with France. It consisted of a long and tedious answer, prepared by the secretary of States, to the published letter of Monsieur Adet, in the form of an official communication addressed to General Pinckney, the new American Minister to the French republic, accompanied by a voluminous mass of diplomatic papers. It was marked by all the repulsive idiosyncracies of Mr. Pickering's style, temper, and character; and was any thing rather than conciliatory, or calculated to allay the irritations which existed.

Mr. Madison, writing to a friend at the time, characterized it significantly as "*corrosive*;" and in another letter he described its hostile tone in terms of yet greater energy. To Mr. Jefferson, on the 29th of January, 1797, he held this language: "As you take the '*Philadelphia Gazette*,' in which the *belligerent* answer to Adet's note has been printed *in toto*, I refer to that for the posture and prospects of things with France. The British faction, since this overt patronage of their cause, no longer wear the mask. *A war with France and an alliance with Great Britain* enter both into print and conversation; and no doubt can be entertained, that a push will be made to screw up the President to that point before he quits office."

The President stood firm and unshaken in the pacific attitude, to which he had frankly pledged

himself by his answer to the address of the House of Representatives. A majority of the representatives of the people still cherished the interests of peace. The cabinet, headed by Messrs. Pickering and Wolcott, was for making up a hostile issue at once with France ; and the Senate was animated by a strong anti-Gallican spirit. The sentiments of the President elect were as yet unknown. And in this state of uncertainty, anxiety, and distracted councils, the question passed, on the 4th of March, 1797, into the hands of the new administration.





# I N D E X.



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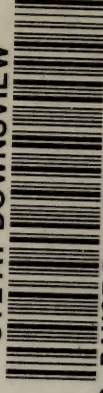
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